SUPREME COURT OF THE UNITED STATES.

No. 359.

DECEMBER TERM, 1868.

DAVID W. JONES, APPELLANT,

vs.

MATTHEW BOLLES, APPELLEE.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

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1 Circuit Court of the United States of America for the District of Wisconsin.

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

At a stated term of a Circuit Court of the United States of America for the district of Wisconsin, begun and held, according to law, at the city of Milwaukee, in said district of Wisconsin, on the second Monday (being the fourteenth day) of September, A. D., 1868.

Present and presiding: The Honorable David Davis, associate justice of the Supreme Court of the United States, assigned to this circuit, and the Honorable Andrew G. Miller, district judge; Cassius Fairchild, marshal; Edward Kurz, clerk.

Among other the following proceedings were had, to wit:

MATTHEW BOLLES, complainant,
vs.
DAVID W. JONES AND THE MINERAL POINT Mining Company, defendants. } In equity.

Be it remembered that heretofore, to wit, on the twenty-first day of November, A. D. 1866, came the above-named complainant, Matthew Bolles, by his solicitors, Messrs. Finches, Lynde & Miller, and filed his bill of complaint against the above-named defendants, as follows, to wit:

Bill of complaint.

To the judges of the Circuit Court of the United States for the district of Wisconsin:

Matthew Bolles, who is a resident of Boston, and a citizen of the State of Massachusetts, brings this his bill of complaint for
2 himself and all other the stockholders of the Mineral Point Mining Company, who purchased stock in said company upon the alleged representations of the defendant, David W. Jones, who are willing to come in, and contribute to the expenses of this suit against David W. Jones, who is a resident of Mineral Point and a citizen of the State of Wisconsin, and the Mineral Point Mining Company, a corporation charted by the legislature of Wisconsin, and doing business in and a citizen of said State.

And thereupon your orator complains and shows: that hertofore, wit, at the city of Boston, in the Commonwealth of Massachusetts, on or about the 25th day of November, A. D. 1865, your orator was, ever since has been, and now is a broker and banker, doing business at No. 90 State street, in said city of Boston; and that on that day the said defendant, the Mineral Point Mining Company, was a body corporate, organized and doing business under the laws of the State of Wisconsin; and on or about said day the said company defendant, by its authorized agents, and the defendant, the said David W. Jones, were introduced to your orator at said city of Boston; and that

the said defendants then and there, in the presence of each other, represented unto your orator that the said defendant, the Mineral Point Mining Company, was then seized in fee of the following described real estate, to wit:

The northeast quarter, and the northwest quarter of southeast quarter, and also the following piece or parcel of the northeast quarter of the southeast quarter, to wit: Commencing at the northeast corner of the northeast quarter of southeast quarter of section number one (1) of township number four (4) of range No. two (2) east; thence eighty rods west to the northwest corner of said tract; thence eighty rods south to the southwest corner; thence thirteen and one-half (13½) rods east; thence one hundred and five rods in a line parallel
3 with the Galena road to the said northeast corner or place of beginning; all of said land being in section number one, in township number four (4,) range No. two (2) east, in the county of Iowa and State of Wisconsin; that the said real estate had before that time been conveyed to the said defendant, the Mineral Point Mining Company, by the said David W. Jones, for and in consideration of the sum of thirty thousand dollars, that said sum of thirty thousand dollars had been fully paid by the said Mineral Point Mining Company to the said Jones; that the said company was owing the said Jones nothing by reason of said conveyance or in any other behalf; and that the title of the said company to said real estate was perfect and unincumbered; and for a further assurance to your orator upon this point, the said defendants exhibited unto your orator a warranty deed from said Jones and his wife to the said Mineral Point Mining Company of the premises aforesaid, a copy of which is hereto annexed, marked exhibit "A," and made part of this, your orator's bill of complaint, and also an abstract of title of said premises, showing an unincumbered title thereto in said company and a certificate of the register of deeds of the county of Iowa aforesaid that said abstract was correct. And your orator further shows unto your honors, that the Mineral Point Mining Company had, prior to that time and pursuant to its charter, fixed its capital stock at the sum of $500,000 00, and issued one hundred thousand shares of stock at the par value of $5 00 each, and that said representations were made unto your orator as aforesaid for the purpose of inducing your orator to purchase stock in said company, and as a broker to induce other capitalists in the city of Boston and elsewhere to invest in said stock.

And your orator further shows unto your honors that the said defendants further represented to your orator, as he believes
4 the fact to be, that said real estate was of great value for mining pupose:, and easily developed and made profitable by a judicious expenditure of money. And the said Jones further represented unto your orator that he had no interest whatever in the aforesaid property of said company.

And your orator further shows unto your honors that the said David W. Jones, at the time he was so introduced to your orator as aforesaid, was an entire stranger to your orator; that he had never seen

or heard of the said Jones to your orator's knowledge, nor had your orator ever had any information or knowledge concerning the property of the said Mineral Point Mining Company; and that, relying upon the representations of the said Jones that said real estate was unincumbered, your orator purchased on his own account and in trust for other parties a large number of shares of the capital stock of said company, and paid therefor the sum of twenty-five thousand dollars and upwards, which went into the treasury of said company, and in addition thereto your orator has otherwise sold upwards of two-thirds of the entire capital stock of said company to parties who purchased and paid for the same upon the said assurance that the property of said company was unincumbered.

Your orator further shows unto your honors that he is informed and believes that at the time the deed aforesaid was executed and delivered by the said Jones and wife to the said Mineral Point Mining Company, as hereinbefore set forth, a certain agreement was made and entered into by and between the said Jones and the Mineral Point Mining Company, a copy of which is hereto annexed, marked "B," and which your orator prays may be made part of this your orator's bill, the existence of which contract the said Jones carefully concealed at the time he made the representations hereinbefore set forth, and relying upon which your orator was induced not only to purchase stock on his own account, but to induce others to purchase also. And your orator further shows unto your honors that long after your orator had purchased said stock, and upon the faith of said representations of the said Jones induced others to purchase large amounts, and within a few weeks the said Jones has claimed, and now claims, as your orator is informed and believes, a large balance as due him for mineral rents and purchase money of said real estate from the said Mineral Point Mining Company, and insists that said contract, a copy of which is marked exhibit "B," as aforesaid, is a valid and subsisting agreement, and threatens, as your orator is informed and believes, to bring an action against the said Mineral Point Mining Company to enforce his pretended claim for rents and purchase money, whereby the stock of said company, which your orator purchased in good faith, and upon the strength of the representations of the said Jones, as aforesaid, and which your orator now holds, is liable to become greatly depreciated in value, and said company to be greatly embarrassed in conducting its affairs. And your orator further shows that he would not have purchased the stock of said company, as aforesaid, nor does he believe any of said stock would have been sold, had not the purchasers believed and trusted in the representations of said Jones that the real estate of said company was unincumbered, and that he had been paid in full for the same. And your orator further shows unto your honors that he is informed and believes that the said pretended claims of the said Jones for mineral rents and balance due for purchase money are false and fraudulent, and put forth on the part of the said Jones to extort money. Your orator further shows unto your honors that he is informed and believes that said contract, a copy of which is hereto an-

6 nexed marked "B," is recorded in the office of the register of deeds for Iowa county aforesaid, and is a cloud upon the title of said defendant, the Mineral Point Mining Company, and has a tendency to depreciate the value of your orator's said stock, and the stock of a large number of persons induced by the aforesaid representations of said Jones to purchase the same.

To the end, therefore, that the said defendant may true, direct and perfect answers make to all and singular the premises under oath, and that as fully to all intents and purposes as though especially interrogated in relation thereto, and that the said David W. Jones may be perpetually enjoined from bringing any action or actions against the said Mineral Point Mining Company, to collect any part or portion of the purchase money of the real estate hereinbefore described or any mineral rents, or the value of mineral taken from said premises, and that he may be required by the order and the decree of this honorable court to discharge of record the aforesaid contract, a copy of which is hereto annexed marked "B," and that the said defendant, the Mineral Point Mining Company, may be restrained from paying to the said Jones any moneys for mineral rents or purchased money of the said real estate, and for such other and further relief as to the honorable court shall seem meet.

May it please your honors to grant unto your orator a writ of injunction issuing out of and under the seal of this honorable court, directed to the said David W. Jones, his attorneys, solicitors, counsellors and agents, enjoining them and each of them from bringing or instituting any action or actions, claim or demand against the Mineral Point Mining Company for purchase money or any part thereof of the real estate conveyed to said company by deed bearing date
7 April 27th, A. D. 1865, by David W. Jones and wife, or for mineral rents for mineral raised upon said land, until the further order of this court, and a writ of subpœna also issuing out of and under the seal of this honorable court, to be directed to the said David W. Jones and the Mineral Point Mining Company, requiring them and each of them upon a certain day therein to be named, and under a penalty therein to be limited, to be and appear before your honors in this honorable court, then and there to answer all and singular the premises, and further to stand to and abide by such order or decree as to this honorable court shall seem meet.

And your orator will ever pray, &c.

MATTHEW BOLLES.

FINCHES, LYNDE & MILLER,
Sol'rs.

WM. P. LYNDE, *Counsel*

On this sixteenth day of November, in the year of our Lord one one thousand eight hundred and sixty-six, before me, the subscribed, a commissioner of the Circuit Court of the United States for the district of Massachusetts, duly appointed to take bail and affidavits in civil causes, and for other purposes, personally appeared Matthew

Bolles, who made solemn oath that the facts stated in the foregoing bill by him signed as of his own knowledge are true, and those stated as of information or belief he believes to be true.

Witness my hand and seal.

[SEAL.] CHAS. LEVI WOODBURY,
Commissioner.

[3 2-ct. rev. stamps, cancelled.]

"A."

This indenture, made the twenty-seventh day of April, in the year of our Lord one thousand eight hundred and sixty-five, between David W. Jones and Emily D. Jones, his wife, both of the city of Mineral Point, in the county of Iowa and State of Wisconsin, parties of the first part, and the Mineral Point Mining Company, a cor-
8 poration created by an act of the legislature of the State of Wisconsin, entitled "An act to incorporate the Mineral Point Mining Company," approved February 18th 1865, party of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of thirty thousand dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, have given, granted, bargained, sold, remised, released, aliened, conveyed and confirmed, and by these presents do give, grant, bargain, sell, remise, release, alien, convey and confirm unto the said party of the second part, its successors and assigns forever, the following described lands and real estate, situate in the said county of Iowa, to wit: The northeast quarter and the northwest quarter of southeast quarter, and also the following piece or parcel of the northeast quarter of the southeast quarter, to wit, commencing at the northeast corner of the northeast quarter of southeast quarter of section number one (1) of township number four (4) of range number two (2) east; thence eighty rods west to the northwest corner of said tract; thence eighty rods south to the southwest corner; thence thirteen and one-half ($13\frac{1}{2}$) rods east; thence one hundred and five rods in a line parallel with the Galena road to the said northeast corner or place of beginning, all of said land being in section number one, township number four, (4,) range number two (2) east, of the fourth principal meridian, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, claim or demand whatsoever of the said parties of the first
9 part, either in law or equity, either in possession or expectancy of in and to the above-bargained premises, and their hereditaments and appurtenances. To have and to hold the said premises as above described, with the hereditaments and appurtenances unto the said party of the second part, and to its successors and assigns forever.

And the said parties of the first part, for their heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the

time of the ensealing and delivery of these presents they are well seized of the premises above described as of a good, sure, perfect, absolute, indefeasible estate of inheritance in the law, in fee simple, and that the same are free and clear from all incumbrances whatever, and that the above-bargained premises, in the quiet and peaceful possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, they will forever warrant and defend.

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written.

[SEAL.] D. W. JONES.
[SEAL.] EMILY D. JONES.

Signed, sealed, and delivered in presence of—
CHARLES D. JONES.
RICHARD L. READ.

[$30 int. rev. stamp.]

STATE OF WISCONSIN, *County of Iowa, ss*:

Be it remembered that on the twenty-seventh day of April, A. D. 1865, personally came before me the above-named David W. Jones and Emily D. Jones, his wife, to me known to be the persons who executed said deed, and acknowledged the same to be their free act and deed for the uses and purposes therein mentioned.

RICHARD L. READ,
Justice of the Peace, Iowa County, Wis.

10 Rec'd for record first day of May, 1865, 11½ o'clock a. m., and recorded in vol. 11 on page 441.

JAMES JONES, *Register.*

[Stamps .06.]

"B."

This indenture made and agreed upon this twenty-seventh day of April, A. D. 1865, by and between the Mineral Point Mining Company, a corporation created by and acting under an act of the legislature of the State of Wisconsin, entitled "An act to encorporate the Mineral Point Mining Company," approved February 18, 1865, party of the first part, and David Walter Jones, of the city of Mineral Point, in the county of Iowa and State of Wisconsin, party of the second part, witnesseth: That, whereas the said party of the second part and Emily D. Jones, his wife, by their deed of warranty, bearing even date herewith, for and in consideration of the sum of thirty-thousand dollars, therein expressed, have conveyed unto the said party of the first part the following described land and real estatate, to wit: The northeast quarter and the northwest quarter of the southeast quarter, and also the following piece or parcel of the northeast quarter of the southeast quarter, to wit, commencing at the notheast corner of the northeast quarter of the southeast quarter of section number one (1) of township number four (4) of range num-

ber two (2) east; thence eighty rods west to the northwest corner of said tract; thence eighty rods south to the southwest corner; thence thirteen and one-half rods east; thence one hundred and five rods in a line parallel with the Galena road to the said northeast corner, or place of beginning. All the above-described land being in section number one (1) in township number four (4) of range number
11 two (2) east, in the county of Iowa, and State of Wisconsin; and whereas the said party of the first part hath not in fact paid unto the said party of the second part any part or portion of the said thirty thousand dollars, but hath agreed to pay the same as soon as the same can be realized from a sale of the capital stock of said company: Now, therefore, know all men by these presents, that the said party of the first part hereby covenants and agrees to and with the said party of the second part, his heirs and assigns, that in case the said party of the first part shall fail to pay unto the said party of the second part the said sum of thirty thousand dollars within six months from and after the first day of June, A. D. 1865, then and in that case the said party of the first part will, upon request of said party of the second part, his heirs or assigns, reconvey the said land and real estate to the said party of the second part, his heirs or assigns, providing the said party of the second part, his heirs or assigns, shall repay to the said party of the first part one-half of all sums of money which he may in the meantime have received from said party of the first part, to apply on said consideration expressed in said deed, and shall execute and deliver to said party of the first part a lease of the ranges of mineral, and license to mine upon the north half of said northeast quarter of section 1, T. 4, R. 2 east, upon the same terms and conditions as the said party of the second part hath heretofore given to Joel C. Squires, Phillip Brenger and Benjamin F. Thomas.

And it is hereby mutually understood that until the said sum of thirty thousand dollars is fully paid unto the said party of the second part, the said party of the second part is to retain possession of the said lands, the sum as if said deed had not been executed, providing,
12 however, that the said party of the first part shall have the right to continue mining operations upon said tract as heretofore, even after a reconveyance as aforesaid.

In testimony whereof the said party of the first part hath hereunto set its seal and caused this instrument to be signed by its president and countersigned by its secretary, and the said party of the second part hath herewith set his hand and seal the day and year first above witten.

MINERAL POINT MINING COMPANY,
[SEAL.] By JOEL C. SQUIRES, *President.*
Countersigned:
EDWARD J. HILL, *Secretary.*
[SEAL.] D. W. JONES.

Signed, sealed and delivered in presence of—
W. W. CLARK.
GEORGE HENRY.

STATE OF WISCONSIN, *Iowa County, ss:*

Be it remembered that at the city of Mineral Point, in said county, on the 1st day of May, A. D. 1865, personally appeared before me the Mineral Point Mining Company, by Joel C. Squires, its president, and Edward J. Hill, its secretary, and also at the same time appeared David W. Jones, to me known to be the person and parties described in, and who executed the above and foregoing written instrument, and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal, hereto affixed

[L. S.] GEORGE HENRY,
Notary Public, residing in Iowa County

And the same day (November 21, 1866) the complainant, by his solicitors, entered in the order and rule book a rule to show cause why an injunction should not be issued as follows:

MATTHEW BOLLES
vs.
13 DAVID W. JONES AND THE MINERAL POINT MINING COMPANY. } Of the 21st day of November, 1866.

On motion of Finches, Lynde and Miller, solicitors, for the complainant, it is ordered that the defendants show cause by the first Monday of December next, at 10 o'clock in the forenoon, why an injunction should not be issued, according to the prayer of the bill on file.

FINCHES, LYNDE & MILLER,
Compl't's Sol'rs.

Whereupon a subpœna issued as follows:

14 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

The President of the United States of America to David W. Jones, and the Mineral Point Mining Company, greeting:

You are hereby commanded that you personally appear before the judges of the Circuit Court of the United States of America for the district of Wisconsin, in our Court of Chancery, in and for the district aforesaid, on the first Monday of January next ensuing, at Milwaukee, to answer to a bill of complaint exhibited against you in our said court by Mathew Bolles.

And to do further, and receive what our said court shall have considered in that behalf; and this you are not to omit under the penalty which may ensue.

This process of subpœna is directed to the marshal of this district, who is hereby commanded to serve the same upon the said David W. Jones and the Mineral Point Mining Company, if to be found in his district, and due return thereof make.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of Milwaukee, in the

said district, this twenty-first day of November, in the year of our Lord one thousand eight hundred and sixty-six, and of our independence the ninety-first.

[SEAL.]

A. SCOTT SLOAN, *Clerk*,
By JAMES McFARLIN, *Deputy*.

FINCHES, LYNDE & MILLER,
Solicitors.

It is ordered by our said court that the said David W. Jones and the Mineral Point Mining Company, the defendants aforesaid, do enter their appearance in this suit in the clerk's office, on or before the day and time at which this subpœna is returnable, as aforesaid; otherwise, the bill filed may be taken as confessed. And it is further ordered, that they show cause by Monday, the third day of December, at ten o'clock in the forenoon, why an injunction should not be issued according to the prayer of the bill on file.

15 *Return.*

Subpœna returned: Served on the within-named Mineral Point Mining Company by delivering to Edward J. Hill, secretary of said company, personally, a copy of this subpœna, this twenty-first day of November, A. D. 1866.

Fees, 2 40.

CASSIUS FAIRCHILD, *Marshal*,
By WM. S. JACKSON, *Deputy*.

[50-cent revenue stamp, cancelled.]

Served on the within-named David W. Jones, by showing him this subpœna, and delivering to him, personally, a copy thereof, and also delivering to him a copy of the bill of complaint, referred to in the within subpœna, this 23d day of November, A. D. 1866.

Fees, $11 70.

CASSIUS FAIRCHILD, *Marshal*,
By GEO. W. BLISS, *Dep'y Mar'l*.

DECEMBER 3, 1866.

This day the rule for an injunction came on to be heard, and was submitted by complainants' solicitors upon the bill and exhibits.

Whereupon it is ordered by the district judge that an injunction be, and hereby is, granted, according to the prayer of the bill, until the further order of the court.

Whereupon an injunction issued, as follows:

16 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

The President of the United States of America to David W. Jones, and to your attorneys, counsellors, solicitors, trustees, agents and servants, and to each and every of you, greeting:

Whereas it has been represented to the judges of the Circuit Court of the United States of America for the district of Wisconsin, in equity,

on the part of Matthew Bolles, that he has lately exhibited his bill of complaint in said court, before the judges thereof, against you, the said David W. Jones, and the Mineral Point Mining Company, defendants in said bill mentioned, to be relieved touching the matters complained of—

Therefore, in consideration thereof and of the particular matters in said bill set forth, you, the said David W. Jones, and the persons before mentioned, and each and every of you, and in the penalty which may ensue, are hereby strictly charged and commanded that you and each and every of you do absolutely desist and refrain from bringing or instituting any action or actions, claim or demand against the Mineral Point Mining Company for purchase money, or any part thereof, of the real estate conveyed to said company, by deed bearing date April 27, A. D. 1865, by David W. Jones and wife, or for mineral rents for mineral raised upon said lands, until the further order of the court.

This process is directed to the marshal for the district of Wisconsin, who is hereby commanded to serve the same upon the said David W. Jones, if found within his district, and due return thereof make, without delay.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of Milwaukee, in the said district of Wisconsin, this 3d day of December, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the United States the ninety-first.

[SEAL.] A. SCOTT SLOAN, *Clerk*,
By JAMES McFARLIN, *Deputy*.

FINCHES, LYNDE & MILLER,
Solicitors.

17 *Return of injunction.*

Injunction returned: Personally served on the within-named David W. Jones, by showing him this writ and delivering to him a copy of the same, this 6th day of December, A. D. 1866.

Fees, $11 70.

[SEAL.] CASSIUS FAIRCHILD, *Marshal*,
By GEO. W. BLISS, *Dep'y*.

DECEMBER 25, 1866.

This day came the defendant, David W. Jones, by Dunn & Cothren, his solicitors, and filed his appearance, and at the same time filed his demurrer; which are as follows:

18 Circuit Court of the United States for the district of Wisconsin.

Appearance.

MATTHEW BOLLES
vs.
THE MINERAL POINT MINING COMPANY and David W. Jones. } In chancery.

The separate appearance in said cause of the above-named David W. Jones, one of said defendants, is hereby entered; and the clerk of said Circuit Court will please enter the appearance of said defendant, David W. Jones, on the first Monday of January, A. D. 1867, in the name of and by the undersigned, his solicitors.

DUNN & COTHREN,
Solicitors for Defendant, D. W. Jones.

Circuit Court of the United States for the district of Wisconsin.

Demurrer.

THE MINERAL POINT MINING COMPANY and David W. Jones *ads.* MATTHEW BOLLES. } In chancery.

This defendant, David W. Jones, separately and for himself, by protestation, not confessing or acknowledging all or any of the matters and things in said complainant's bill to be true, in such manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer showeth that the said complainant hath not, in and by his said bill, made or stated such a case as doth or ought to entitle him to any such discovery or relief as is thereby sought and prayed for, from or against these defendants.

Wherefore this defendant demands the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill or any of the matters and things therein
19 contained, and prays to be hence dismissed, with his reasonable costs in this behalf sustained.

DUNN & COTHREN,
Solicitors for Defendant, D. W. Jones.

I, M. M. Cothren, of counsel for the above-named defendant, David W. Jones, do hereby certify that in my opinion the above demurrer is well founded in point of law.

M. M. COTHREN,
Counsel for Def't, D. W. Jones.

STATE OF WISCONSIN, *County of Iowa, ss:*

David W. Jones, being duly sworn, deposes and says, that he is one

of the defendants in the cause above entitled, and that the foregoing demurrer, interposed by him, is not interposed for delay, and further saith not.

D. W. JONES.

Subscribed and sworn to before me this 22d day of December, A. D. 1866.

[SEAL.] CYRUS LANYON,
Notary Public for Wisconsin, residing in Iowa County.

Order overruling demurrer.

JANUARY 9, 1867.

This day came the parties, by their counsel, and the demurrer of the defendant, David W. Jones, to the bill of complaint came on to be heard, and was argued by counsel.

Whereupon it is ordered by the court that the demurrer be and the same is overruled.

Answer of Jones.

JANUARY 15, 1867.

This day came the defendant, David W. Jones, by his counsel, and filed his separate answer, as follows:

Circuit Court of the United States for the district of Wisconsin.

THE MINERAL POINT MINING COMPANY and DAVID W. JONES *ads.* MATTHEW BOLLES. } In chancery.

20 The separate answer of David W. Jones to the bill of complaint of the complainant herein, now and at all times saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiences in the complainant's said bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as this defendant is advised is material for him to make answer unto, he answers and says that he admits the place of residence and citizenship of said complainant and of said defendants, as set forth in said bill of complaint. He also admits that said complainant was, on or about the 25th day of November, A. D. 1865, and has been since that time, a broker and banker, doing business at No. 90 State street, in the city of Boston, in the Commonwealth of Massachusetts. He further admits that on said last-mentioned day the said defendant, the Mineral Point Mining Company, was a body corporate, organized and doing business under the laws of the State of Wisconsin. The said defendant answering says, that he does not recollect the time or ceremony of introduction of himself or the agents of said mining company to the said complainant Bolles; but admits that

he, himself, and one E. J. Hill and E. L. Buttrick, the secretary and president of said company, did, at or about the time mentioned in said complaint, become acquainted with said complainant in said city of Boston.

The said defendant, further answering, denies that, at or about the said time of introduction to said complainant Bolles, the said agents of said defendant, the said mining company, in the presence of said defendant Jones, or that said defendant Jones, in the presence of said agents, "represented to said complainant Bolles, or any one else, that the said defendant, the Mineral Point Mining Company, was then seized in fee of the following described real estate, to wit: the northeast quarter and the northwest quarter of southeast quarter; and also the following piece or parcel of the north-
21 east quarter of the southeast quarter, to wit, commencing at the northeast corner of the northeast quarter of southeast quarter of section number one (1) of township number four (4) of range number two (2) east; thence eighty rods west to the northwest corner of said tract; thence eighty rods south to the southwest corner; thence thirteen and one-half ($13\frac{1}{2}$) rods east; thence one hundred and five rods in a line parallel with the Galena road to the said northeast corner or place of beginning; all of said lands being in section number one, in township number four, (4,) range number two (2) east, in the county of Iowa and State of Wisconsin; that the said real estate had before that time been conveyed to the said defendant, the Mineral Point Mining Company, by the said David W. Jones, for and in consideration of the sum of thirty thousand dollars; that said sum of thirty thousand dollars had been fully paid by the said Mineral Point Mining Company to the said Jones; that the said company was owing the said Jones nothing by reason of said conveyance, or in any other behalf, and that the title of the said company to said real estate was perfect and unincumbered; and for a further assurance to the said complainant upon this point, the said defendant exhibited unto said complainant a warranty deed from said Jones and his wife to the said Mineral Point Mining Company of the premises aforesaid," as is stated and represented in said bill of complaint.

The said defendant Jones, further answering, says that, at or about the said time of introduction to said complainant Bolles, a large number of persons met at the house of said complainant Bolles, in said city of Boston.

That the object of said meeting was, among other things, to discuss and consider the policy of investing money in stock of the said Mineral Point Mining Company; that he, said defendant, was present at the said meeting; that several gentlemen present spoke
22 of the prospect of the mining interest in Wisconsin, and particularly of the prospects of the Mineral Point Mining Company.

That, among others, E. J. Hill, esq'r, secretary of said company, spoke; said defendant Jones answering, says positively that he did not hear so as to understand the purport of the remarks of said Hill,

as he, defendant, was some distance from said Hill while he was speaking.

There were three rooms thrown into one by folding doors, pretty well filled, and some had to stand or sit at a considerable distance from the speaker; the said defendant was among those who stood or sat at a considerable distance; but defendant Jones, further answering, says that he was informed soon after said Hill was done speaking that he, said Hill, had represented the said Mineral Point Mining Company in a good condition, as the company had a warranty deed from said defendant Jones and his wife for the said lands hereinbefore described, and had paid him, said defendant Jones, therefor; that upon hearing this, which he did not hear until after leaving said meeting, he, said defendant Jones, immediately took such steps as were in his power to remove any wrong or false impression which said Hill had made, or might have made in his said statement, and among other things, went the next morning and saw said Hill, and remonstrated with him about his statement of the preceding evening, and asked him why he had made the statement that he, defendant Jones, had been fully paid for said land conveyed to said company, when he knew that not one cent had been paid to him, and that there was a written instrument between the said company and him, said defendant Jones, securing to him, said defendant, the payment of the purchase money for the land conveyed to said company; whereupon the said Hill apologized and explained to him, defendant, that although the land had not really been paid for, yet payment was secured by the instrument referred to by him, said defendant Jones, and that he, defendant, should soon have his
23 money. Defendant also went to Mr. J. W. Whittemore's office, on Washington street, where the office of the Mineral Point Mining Company was then kept, the said Whittemore then being an officer of said company, according to defendant's recollection, said Whittemore being then the treasurer of said company, and explained to him, said Whittemore, that he, defendant, had not been paid for the land which he had conveyed to said company, and that he had a written contract with said company securing to him, defendant, the payment of the purchase money for said tract of land. He referred Mr. Whittemore to a copy of said article of agreement, certified to by the register of deeds of Iowa county, Wisconsin, then in the possession of Mr. Wilder, another stockholder of said company residing in Boston; and as he, defendant, had been informed by E. J. Hill, secretary of said company, and E. L. Buttrick, president of said company, that complainant and one Rev. Mr. Olmstead had been employed by them to sell stock in said company, and that the meeting at the house of complainant was for the purpose of inducing persons to purchase said stock, he requested Mr. Whittemore, upon reading said "article of agreement," to inform Messrs. Bolles and Olmstead of the amount due him. He, said Whittemore, subsequently informed defendant that he had done so, and defendant believes that said Whittemore did as he said he had done.

And this defendant, Jones, alleges that no stock was taken by

plaintiff or any other person at said meeting, and he denies that he ever represented to plaintiff or to any other person at said meeting, or in Boston, or at any other place or time, that he had been fully paid for said tracts of land; and he denies that said plaintiff or any other person was induced to purchase stock in said company by his, defendant's, representations that the land of the company had been paid for.

24 The said defendant, further answering, says that the instrument in writing between the said Mineral Point Mining Company and himself, whereby they bound themselves to pay him the purchase money for said land referred to by him as aforesaid, is the instrument in writing of which a true copy is given in the said complainant's said bill of complaint herein, and made part thereof; and the said defendant Jones refers to the said original instrument as part of this his answer, and will produce the same as the court may direct and permit.

And the said defendant Jones, further answering, says that after said meeting at the house of said complainant Bolles, in the said city of Boston, after he had corrected the said statement of said Hill, as aforesaid, he, said defendant, also explained to several gentlemen who had been present at that meeting that although the said Mineral Point Mining Company had received from him a deed of conveyance of said land, they had not paid him one cent, or any of the purchase money; and that the payment of said purchase money was provided for and secured by said instrument in writing referred to above, and made part of this answer, and told them or some of them that Mr. Wilder, of said city of Boston, had a copy of said instrument from the records, and that by calling on him it could be seen at any time; and the said defendant Jones requested said persons to whom he made this explanation to state the fact to every one who felt or had an interest in or about the stock of the said Mineral Point Mining Company.

The said defendant, further answering, says that the said meeting was at the house of said complainant, in said city of Boston, and that said complainant was present at said meeting.

The said defendant Jones denies that either he or the said agents of the said Mineral Point Mining Company, in his defendant's
25 presence, ever produced and showed to said complainant an abstract of title of said premises, with a certificate of the register of deeds of the said county of Iowa, that said abstract was correct, showing an unincumbered title to said premises, in said company, at the time of said meeting or at any other time.

Defendant, further answering, says that he heard the said E. J. Hill tell plaintiff and others, at the same time in Boston, that he had an abstract of title to all the lands purchased by the Mineral Point Mining Company, embracing that purchased of this defendant and others; but this defendant never saw said Hill show it to said complainant, and this defendant supposed that if said Hill had an abstract it referred to the contract between him and said company, as

well as to everything connected with the title of the land by him sold to said company.

The said defendant Jones, answering, says that at all times, when speaking of the matter to any one, he explained, as heretofore set forth in this answer, that the said written instrument made part of this answer, and hereinbefore referred to, was in existence and duly recorded in said Iowa county.

And defendant, further answering, says that if any abstract of title was shown to said complainant by said Hill, or any other agent of said company, showing a title clear of said contract, it was an abstract of his, the said defendant Jones, title before he conveyed to said Mineral Point Mining Company, which was given for the satisfaction of said company before they contracted for the purchase of said land, and not a true abstract after such sale.

The said defendant, further answering, says that said deed to the said Mineral Point Mining Company, by said defendant and wife, was executed to said company on the 27th day of April, 1865, and delivered to said company on the 1st day of May, A. D.
26 1865, and recorded in said register's office on the 3d day May, 1865, as will appear by reference to said deed, which is made a part of said complainant's said bill herain; and that said instrument in writing, by which the said Mineral Point Mining Company agreed and bound themselves to pay to said defendant Jones the said purchase money for said land, to wit, the sum of thirty thousand dollars, in manner as specified in said instrument, is dated on the 27th day of April, 1865, and was executed and delivered to said defendant Jones on the said 1st day of May, 1865, and recorded in said register's office on the 3d day of said month of May.

And said defendant, further answering, says that by reference to the original instrument, which is made a part of this his answer, these facts will more fully appear; and that if the said Hill, or any other agent of said company, showed to said complainant Bolles, at any time or place after the said 3rd day of May, 1865, any abstract of title to said lands in the said Mineral Point Mining Company, free and clear of all incumbrances, the same was false and untrue, and procured and exhibited without the knowledge or consent of said defendant Jones.

The said defendant, further answering, says that he admits that the said Mineral Point Mining Company had, prior to the said meeting or assemblage of persons at the said house of said complainant, as hereinbefore stated, pursuant to its charter, fixed its capital stock at the sum of $500,000, and issued one hundred thousand shares of stock at par value of $5 each; and that whatever representations he, the said defendant Jones, made to said complainant Bolles, were made to promote the sale of said stock; that his representations were true and exactly what he has set forth in this, his answer, and not otherwise. The said defendant then thought, and now thinks,
27 that the investment in said stock, was and is a good investment. The said defendant does not know that said complainant Bolles has invested largely in said stock, or that he has in-

duced others to invest also; and if he has done either, whether he or they were influenced thereto by any representations by said defendant Jones, or the agents of said company, the said defendant is unable to answer.

The said defendant, further answering, says that he may have represented to said complainant Bolles that said real estate was of great value for mining purposes, but he denies that he told him they were easily developed and made profitable by a judicious expenditure of money, but alleges that he told said Bolles that while the ground was of great value for mining purposes, it would require a large sum of money, more than he, defendant, had to properly develop and open and unwater the said ground, and uncover the ores where discoveries had already been made; and he, defendant, explained to said complainant that his reason for selling said land was that he, defendant, had not means sufficient within himself to properly prosecute mining operations on said lands. This defendant may have represented to said complainant Bolles that he had no interest whatever in the stock and business of said company, which is true; but he most positively denies that he ever represented to said complainant Bolles, or any one else, at any time or place, that he had no interest in said real estate, conveyed to said company, by himself and wife, but always represented the fact as it was, that he had an interest by said instrument in writing to secure to him the payment of said purchase money from the said company, as set forth fully in this his answer.

28 The said defendant Jones, further answering, says that he admits that previous to said meeting or assemblage of persons at the house of said complainant Bolles in said city of Boston, he the said defendant Jones was an entire stranger to said complainant Bolles, and that be may never have previously seen or heard of said defendant Jones; and the defendant on his part deeply regrets that they had not forever remained strangers to each other. The said defendant does not know whether or not the said complainant Bolles had any information or knowledge concerning the property of the said Mineral Point Mining Company before forming an acquaintance with him, said defendant, but denies, as hereinbefore denied, that he, said defendant, made at any time to said complainant any false representations about the said real estate being unincumbered, but always and at all times explained that the said instrument was in existence of record, and secured to him, said defendant, the payment of his said purchase money.

The said defendant, further answering, says that he denies that complainant was induced to purchase stock for himself, or others, by any false representations made by said defendant, as seth forth in said bill of said complainant. Defendant does not know that said complainant purchased stock, and paid therefor to the amount of twenty-five thousand dollars and upwards, and has no means of knowing whether such is the case or not. And he does not know, and has no means of knowing whether said complainant, for himself or

others, caused any money to be paid into the treasury of said Mineral Point Mining Company or not.

The said defendant, further answering, says that after the time set forth in said complainant's bill, that said defendant Jones made the representations to said complainant, which said complainant
29 charges and alleges in his said bill to be false and fraudulent.

The said defendant, Jones, received from and through said complainant Bolles, as treasurer, agent, or broker of the said Mineral Point Mining Company, at different times and in different ways, the sum of twenty thousand eight hundred and twenty-one dollars, part of the said thirty thousand dollars, the purchase money of and for said real estate conveyed to said company as aforesaid, the said sum being all that has ever been paid of said purchase money, except five thousand dollars paid by the secretary of said company, E. J. Hill; that said complainant Bolles, at the various times at which the said sums of money were paid to this defendant, by and through him as treasurer, agent, or broker of said company, never insisted, claimed, or pretended for one moment that said purchase money, or any part thereof, had been paid by said Mineral Point Mining Company, or any one for them, at the time of the execution and delivery of said deed to said company, or at any other time, but voluntarily paid said portion of said purchase money upon drafts drawn by Buttrick and Hill upon him, in favor of said defendant.

And the said defendant Jones, from the assurance of said complainant Bolles and other officers and agents of the said Mineral Point Mining Company, expected that the balance of the purchase money due him, together with the rents provided for in said instrument in writing, made a part of this answer, would have been fully paid to him before this time. And said defendant was greatly surprised a few days since, when a copy of said complainant's bill of complaint herein, with subpœna and injunction, were served on him by the deputy marshal of the State of Wisconsin; that the service of these papers was the first intimation that said defendant had received
30 that the said complainant Bolles would contest the payment to him of the said balance of said purchase money and said rents.

The said defendant, answering further, denies all combinations and fraudulent representations with which he is charged in said bill of complaint herein, and prays that upon a full hearing of this cause the injunction served herein may be dissolved, and that such order or decree may be made herein in favor of said defendant as may seem equitable and just.

The said defendant Jones, further answering, says, and he herein expressly charges and alleges, that the said Mineral Point Mining Company, his co-defendant, is justly indebted to him in a large sum of money, to wit, four thousand one hundred and seventy-nine dollars, the balance of said purchase money, according to the terms and conditions of said instrument in writing referred to and made a part of this answer; and that the said company are also indebted to said defendant Jones in a large sum of money for mineral rents secured to

be paid to said defendant Jones on conditions which have not been fulfilled by the said Mineral Point Mining Company, which said rent and conditions are also provided for and expressed in said instrument in writing referred to and made a part of this answer.

And the said defendant Jones, further answering, says that he is informed and believes, and expressly charges and alleges that the said complainant and his said co-defendant, the said Mineral Point Mining Company, have combined, conspired and colluded together fraudulently and wilfully to bring this suit in the name of said complainant against said defendant Jones, thereby to injure and defraud said defendant Jones out of the said balance of his said purchase
31 money and of said rents, which are justly owing to said defendant Jones, and remain unpaid. And this defendant alleges in this behalf, that he is informed and believes, and charges the fact to be that E. J. Hill, secretary of said Mineral Point Mining Company, and E. L. Buttrick, the president of said Mineral Point Mining Company, have entered into an agreement to and with said complainant to indemnify said complainant, and also to indemnify said Mineral Point Mining Company against loss and damages for commencing and carrying on this suit in order, and in case that if said complainant shall succeed in this cause, the said Hill and Buttrick may have and for themselves retain the balance of the purchase money due this defendant upon his said sale of said land to said company, and also to defeat this defendant from recovering the amount of rents due him from said company upon said contract herein before referred to. And this defendant is informed and believes, and charges the fact to be that the said E. J. Hill and E. L. Buttrick, of the firm of Buttrick & Hill of Milwaukee, Wisconsin, falsely claim that they have paid this defendant, D. W. Jones, four thousand dollars in commissions due them from defendant on the sale of said lands to said Mineral Point Mining Company, and that said Buttrick and Hill have fraudulently combined and colluded with said Mineral Point Mining Company and said complainant to bring this suit, and in case of success in the same, that the said Mining Company will pay the said Buttrick and Hill the said four thousand dollars due this defendant as a part of the purchase money due on the said sale of said land, instead of paying said amount to this defendant; and as a consideration for such fraudulent combination and collusion, the said Mining Company is, in case of success in
32 this suit, to cut off and deprive this defendant of the mineral rents which are secured to him by said contract with the said company, amounting to several thousand dollars, which said company now justly owes this defendant. And defendant further alleges that he has reason to believe and does believe, and so charges the fact to be, that one of the objects sought to be attained by the said fraudulent combination of the said complainant with the said Buttrick and Hill, and the said Mining Company, is to give this honorable court jurisdiction of this cause by bringing forward the said Bolles as complainant, he being a resident of another State, instead of the Mineral Point Mining Company, a corporation of this State, bringing a suit

others, caused any money to be paid into the treasury of said Mineral Point Mining Company or not.

The said defendant, further answering, says that after the time set forth in said complainant's bill, that said defendant Jones made the representations to said complainant, which said complainant
29 charges and alleges in his said bill to be false and fraudulent.

The said defendant, Jones, received from and through said complainant Bolles, as treasurer, agent, or broker of the said Mineral Point Mining Company, at different times and in different ways, the sum of twenty thousand eight hundred and twenty-one dollars, part of the said thirty thousand dollars, the purchase money of and for said real estate conveyed to said company as aforesaid, the said sum being all that has ever been paid of said purchase money, except five thousand dollars paid by the secretary of said company, E. J. Hill; that said complainant Bolles, at the various times at which the said sums of money were paid to this defendant, by and through him as treasurer, agent, or broker of said company, never insisted, claimed, or pretended for one moment that said purchase money, or any part thereof, had been paid by said Mineral Point Mining Company, or any one for them, at the time of the execution and delivery of said deed to said company, or at any other time, but voluntarily paid said portion of said purchase money upon drafts drawn by Buttrick and Hill upon him, in favor of said defendant.

And the said defendant Jones, from the assurance of said complainant Bolles and other officers and agents of the said Mineral Point Mining Company, expected that the balance of the purchase money due him, together with the rents provided for in said instrument in writing, made a part of this answer, would have been fully paid to him before this time. And said defendant was greatly surprised a few days since, when a copy of said complainant's bill of complaint herein, with subpœna and injunction, were served on him by the deputy marshal of the State of Wisconsin; that the service of these papers was the first intimation that said defendant had received
30 that the said complainant Bolles would contest the payment to him of the said balance of said purchase money and said rents.

The said defendant, answering further, denies all combinations and fraudulent representations with which he is charged in said bill of complaint herein, and prays that upon a full hearing of this cause the injunction served herein may be dissolved, and that such order or decree may be made herein in favor of said defendant as may seem equitable and just.

The said defendant Jones, further answering, says, and he herein expressly charges and alleges, that the said Mineral Point Mining Company, his co-defendant, is justly indebted to him in a large sum of money, to wit, four thousand one hundred and seventy-nine dollars, the balance of said purchase money, according to the terms and conditions of said instrument in writing referred to and made a part of this answer; and that the said company are also indebted to said defendant Jones in a large sum of money for mineral rents secured to

be paid to said defendant Jones on conditions which have not been fulfilled by the said Mineral Point Mining Company, which said rent and conditions are also provided for and expressed in said instrument in writing referred to and made a part of this answer.

And the said defendant Jones, further answering, says that he is informed and believes, and expressly charges and alleges that the said complainant and his said co-defendant, the said Mineral Point Mining Company, have combined, conspired and colluded together fraudulently and wilfully to bring this suit in the name of said complainant against said defendant Jones, thereby to injure and defraud said defendant Jones out of the said balance of his said purchase
31 money and of said rents, which are justly owing to said defendant Jones, and remain unpaid. And this defendant alleges in this behalf, that he is informed and believes, and charges the fact to be that E. J. Hill, secretary of said Mineral Point Mining Company, and E. L. Buttrick, the president of said Mineral Point Mining Company, have entered into an agreement to and with said complainant to indemnify said complainant, and also to indemnify said Mineral Point Mining Company against loss and damages for commencing and carrying on this suit in order, and in case that if said complainant shall succeed in this cause, the said Hill and Buttrick may have and for themselves retain the balance of the purchase money due this defendant upon his said sale of said land to said company, and also to defeat this defendant from recovering the amount of rents due him from said company upon said contract herein before referred to. And this defendant is informed and believes, and charges the fact to be that the said E. J. Hill and E. L. Buttrick, of the firm of Buttrick & Hill of Milwaukee, Wisconsin, falsely claim that they have paid this defendant, D. W. Jones, four thousand dollars in commissions due them from defendant on the sale of said lands to said Mineral Point Mining Company, and that said Buttrick and Hill have fraudulently combined and colluded with said Mineral Point Mining Company and said complainant to bring this suit, and in case of success in the same, that the said Mining Company will pay the said Buttrick and Hill the said four thousand dollars due this defendant as a part of the purchase money due on the said sale of said land, instead of paying said amount to this defendant; and as a consideration for such fraudulent combination and collusion, the said Mining Company is, in case of success in
32 this suit, to cut off and deprive this defendant of the mineral rents which are secured to him by said contract with the said company, amounting to several thousand dollars, which said company now justly owes this defendant. And defendant further alleges that he has reason to believe and does believe, and so charges the fact to be, that one of the objects sought to be attained by the said fraudulent combination of the said complainant with the said Buttrick and Hill, and the said Mining Company, is to give this honorable court jurisdiction of this cause by bringing forward the said Bolles as complainant, he being a resident of another State, instead of the Mineral Point Mining Company, a corporation of this State, bringing a suit

for the cancellation of said contract in case it ought to be canceled and set aside, or of said Buttrick and Hill, who are residents of this State, bringing a suit against this defendant, to settle the disputed matter of four thousand dollars between them and this defendant. And this defendant protests that said complainant is not a proper party to bring this suit for the purpose of settling by legal or equitable adjudication any of the matters sought in complainant's complaint to be settled in this court.

That the sole object of said complainant is upon the false charges and allegations of his said bill to enjoin perpetually the said defendant Jones from proceeding to collect the said balance of his said purchase money and his said rents.

And the said co-defendant, the said Mineral Point Mining Company, desire the success of said complainant, and combine and collude with him for that purpose, that said company may escape from the payment to said defendant Jones of a just demand, which they are in law and equity bound to pay him.

That if, by the combination and collusion aforesaid, the said
33 complainant should succeed on his said bill herein, the said co-defendant, the Mineral Point Mining Company, would unjustly gain from said defendant Jones several thousand dollars for the use of said company, and the said stock of said company owned by said complainant would be proportionably enhanced in value, at the expense and loss of said defendant Jones, which would be unjust, inequitable and oppressive.

And this defendant submits to this honorable court, that all and every of the matters in the said complainant's bill mentioned and complained of are matters which may be tried and determined at law, and with respect to which the said complainant is not entitled to any relief from a court of equity. And this defendant hopes he shall have the same benefit of this defence as if he had demurred to said complainant's bill. And he denies all and all manner of combination and confederacy with which he is charged in complainant's said bill of complaint, and prays that he may be hence dismissed with his reasonable costs and disbursements in his behalf, in this suit laid out and expended, and that he may have such other and further relief in the premises, as in justice and equity he may be entitled to.

DUNN AND COTHREN,
Solicitors for Defendants.

D. W. JONES.

DISTRICT OF WISCONSIN, *ss*:

On this 9th day of January, A. D. 1867, personally came before the undersigned, a commissioner of U. S. Circuit Court for the district of Wisconsin, David W. Jones, the above-named defendant, who being by me duly sworn, deposes and says, that he is one of the defendants in the above-entitled action; that he has heard the foregoing answer to the complainant's bill of complaint read, and knows
34 the contents thereof, and that the same is true of his own

knowledge, except as to the matter which are therein stated to be on the information and belief of the defendant, and as to those matters the deponent believes it to be true.

D. W. JONES.

Subscribed and sworn to before me this 9th day of January, A.D. 1867.

J. M. MILLER,
U. S. Court Com'r, Wisconsin.

Circuit Court of the United States for the district of Wisconsin.

Replication.

FEBRUARY 27, 1867.

This day came the complainant, by his counsel, and filed his replication, as follows:

MATTHEW BOLLES, complainant,
vs.
THE MINERAL POINT MINING COMPANY and David W. Jones, defendants.

The replication of Matthew Bolles, complainant, to the answer of David W. Jones, def't:

This repliant, saving and reserving to himself, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiences of the said answer, for replication thereunto says that he will ever maintain and prove his bill of complaint to be true, certain and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto without this, that any other matter or thing whatsoever in the said answer contained, material or effectual, to be replied unto and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all of which matters and things this repliant is and will be ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

FINCHES, LYNDE & MILLER,
Complainants' Solicitors.
B. K. MILLER, *of counsel.*

And same day (February 27, 1867) complainant filed interrogatories to be propounded to the witnesses, and entered a rule for a commission to issue to Wm. G. Colborn, of Boston, Massachusetts, to take the depositions of Matthew Bolles, John W. Olmstead, Hezekiah S. Chase, Charles D. Gould and John M. Whittemore, of Boston, witnesses to be produced and sworn on behalf of the complainant.

for the cancellation of said contract in case it ought to be canceled and set aside, or of said Buttrick and Hill, who are residents of this State, bringing a suit against this defendant, to settle the disputed matter of four thousand dollars between them and this defendant. And this defendant protests that said complainant is not a proper party to bring this suit for the purpose of settling by legal or equitable adjudication any of the matters sought in complainant's complaint to be settled in this court.

That the sole object of said complainant is upon the false charges and allegations of his said bill to enjoin perpetually the said defendant Jones from proceeding to collect the said balance of his said purchase money and his said rents.

And the said co-defendant, the said Mineral Point Mining Company, desire the success of said complainant, and combine and collude with him for that purpose, that said company may escape from the payment to said defendant Jones of a just demand, which they are in law and equity bound to pay him.

That if, by the combination and collusion aforesaid, the said
33 complainant should succeed on his said bill herein, the said co-defendant, the Mineral Point Mining Company, would unjustly gain from said defendant Jones several thousand dollars for the use of said company, and the said stock of said company owned by said complainant would be proportionably enhanced in value, at the expense and loss of said defendant Jones, which would be unjust, inequitable and oppressive.

And this defendant submits to this honorable court, that all and every of the matters in the said complainant's bill mentioned and complained of are matters which may be tried and determined at law, and with respect to which the said complainant is not entitled to any relief from a court of equity. And this defendant hopes he shall have the same benefit of this defence as if he had demurred to said complainant's bill. And he denies all and all manner of combination and confederacy with which he is charged in complainant's said bill of complaint, and prays that he may be hence dismissed with his reasonable costs and disbursements in his behalf, in this suit laid out and expended, and that he may have such other and further relief in the premises, as in justice and equity he may be entitled to.

DUNN AND COTHREN,
Solicitors for Defendants.
D. W. JONES.

DISTRICT OF WISCONSIN, *ss*:

On this 9th day of January, A. D. 1867, personally came before the undersigned, a commissioner of U. S. Circuit Court for the district of Wisconsin, David W. Jones, the above-named defendant, who being by me duly sworn, deposes and says, that he is one of the defendants in the above-entitled action; that he has heard the foregoing answer to the complainant's bill of complaint read, and knows
34 the contents thereof, and that the same is true of his own

knowledge, except as to the matter which are therein stated to be on the information and belief of the defendant, and as to those matters the deponent believes it to be true.

D. W. JONES.

Subscribed and sworn to before me this 9th day of January, A.D. 1867.

J. M. MILLER,
U. S. Court Com'r, Wisconsin.

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MATTHEW BOLLES, complainant,
vs.
THE MINERAL POINT MINING COMPANY and David W. Jones, defendants.

The replication of Matthew Bolles, complainant, to the answer of David W. Jones, def't:

This repliant, saving and reserving to himself, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiences of the said answer, for replication thereunto says that he will ever maintain and prove his bill of complaint to be true, certain and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto without this, that any other matter or thing whatsoever in the said answer contained, material or effectual, to be replied unto and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all of which matters and things this repliant is and will be ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

FINCHES, LYNDE & MILLER,
Complainants' Solicitors.
B. K. MILLER, *of counsel.*

And same day (February 27, 1867) complainant filed interrogatories to be propounded to the witnesses, and entered a rule for a commission to issue to Wm. G. Colborn, of Boston, Massachusetts, to take the depositions of Matthew Bolles, John W. Olmstead, Hezekiah S. Chase, Charles D. Gould and John M. Whittemore, of Boston, witnesses to be produced and sworn on behalf of the complainant.

MARCH 4, 1867.

This day came the defendant, Jones, by counsel, and filed notice that he desired to take the testimony in this cause orally, as follows:

Circuit Court of the United States for the district of Wisconsin.

DAVID W. JONES and THE MINERAL POINT Mining Company, defendants,
ads.
MATTHEW BOLLES, complainant.

MARCH 1ST, 1867.

Please take notice that the above-named defendant, David W. Jones, desires the evidence to be adduced in this cause to be taken orally.

M. M. COTHREN,
Solicitor for def't Jones.

To Fidches, Lynde and Miller, solicitors for complainant.

MARCH 26, 1867.

This day came the complainant, by his counsel, and filed motion and notice for application to the court for appointment of an examiner to take the testimony in this cause orally, as follows:

36 Circuit Court of the United States in and for the district of Wisconsin.

Motion of comp'l't for app't of examiner.

MATTHEW BOLLES
vs.
DAVID W. JONES and THE MINERAL Point Mining Company.

MARCH 25TH, 1867.

And now comes the said complainant, by Finches, Lynde & Miller, his solicitors, and moves the court that James C. Davis, esq., of No. 30 Court street, Boston, be appointed examiner to take the testimony of witnesses to be examined orally in the above-entitled cause, in the city of Boston, Massachusetts, or for the appointment of some other person or party as such examiner, or that the complainant may have such other or further relief as to the court may seem just and equitable.

FINCHES, LYNDE & MILLER,
Compl't's Solicitors.

To M. M. Cothren, esq., solicitor for defendant Jones:

Please take notice that a motion, of which the above is a copy, will be made at the next term of the Circuit Court of the United States, to be held in the court-room of the Circuit Court of the United

States, in and for the district of Wisconsin, in the city of Milwaukee, State of Wisconsin, on the second Monday of April, 1867, at the opening of the court on that day, or as soon thereafter as counsel can be heard; that said motion will be based upon the records, papers and proceedings in this cause, and upon the written demand made by the defendant Jones, dated March 1st, 1867, that the evidence be taken orally.

Dated March 25th, 1867.

Yours, &c., FINCHES, LYNDE & MILLER,
Sol'rss for compl't.

DISTRICT OF WISCONSIN, *ss:*

37 Thomas Kovits, being duly , deposes and says, that he is clerk in the office of Finches, Lynde & Miller, solicitors for complainant; that on the 25th day of March, A. D. 1867, he, this deponent, deposited in the post office, in the city of Milwaukee, a copy of the above motion and notice, enclosed in a sealed envelope, and the postage thereon paid, with a direction endorsed on said envelope as follows: M. M. Cothren, esq., att'y-at-law, Mineral Point, Wis.; and further saith not.

THOMAS KOVITS.

Subscribed and sworn to before me March 26th, 1867.

JAMES McFARLIN,
U. S. Com'r, Dis't of Wis.

Order appointing Jas. C. Davis examiner.

APRIL 10, 1867.

This day came the complainant, by his counsel, and the motion for the appointment of an examiner to take testimony, &c., came on to be heard and was submitted to the court; whereupon it is ordered by the court that James C. Davis, esq., of No. 30 Court street, Boston, Massachusetts, be appointed an examiner to take the testimony of witnesses to be examined orally in the above-entitled cause in the city of Boston, Massachusetts.

AUGUST 28, 1867.

Depositions received from post office and filed.

SEPTEMBER 2, 1867.

"On motion of Finches, Lynde & Miller, complainant's solicitors, it is ordered that this cause be, and the same hereby is, set down for hearing upon bill, answer, replication and proofs."

SEPTEMBER 9, 1867.

Depositions received from post office and filed.

SEPTEMBER 17, 1867.

Depositions received from F. Bloodgood, com'r, and filed.

SEPTEMBER 19, 1867.

This day came the defendant, David W. Jones, by his counsel, and moved the court to suppress the depositions and testimony
38 produced by the complainant, for reasons filed, as follows:

United States Circuit Court for the district of Wisconsin.

Motion of defendant to suppress deposition.

MATTHEW BOLLES
vs.
THE MINERAL POINT MINING COMPANY and David W. Jones. } In chancery.

SEPTEMBER 18, 1867.

And now comes the said defendant, David W. Jones, by his attorney and solicitor, M. M. Cothron, and moves the court now here to suppress and exclude the depositions and testimony produced by plaintiff, for the reason that the same, and all of it, is irrelevant, impertinent and improper testimony in the case.

M. M. COTHREN,
Solicitor for D. W. Jones.

DECEMBER 16, 1867.

On motion of Finches, Lynde & Miller, solicitors of complainants, it is ordered that this cause be, and the same hereby is, set down for hearing upon bill, answer and proofs, at the January term, 1868.

And afterwards, to wit, at a term of said court, began and held at the city of Milwaukee, on the second Monday of April, A. D. 1868, and on the 28th day thereof, to wit, on the 7th day of July, A. D. 1868, the following proceedings were had, to wit:

Pro confesso as to Mineral P't Mining Co.

MATTHEW BOLLES
vs.
DAVID W. JONES and THE MINERAL Point Mining Company. } In equity.

This day came the complainant, by his counsel, Mr. Lynde, and on his motion it is ordered by the court that this bill be and hereby is taken as confessed against the Mineral Point Mining Company, defendant, it not having filed a plea, answer or demurrer to said bill.

39 *Hearing.*

And this day came the complainant, by his counsel, Mr. Lynde, and the defendant, David W. Jones, by his counsel, Mr. Cothren, and this cause between these parties came on to be heard upon the pleadings and evidence, and not being concluded the further hearing was adjourned until to-morrow morning.

Hearing concluded.

JULY 8TH, 1868.

This day came the complainant and the defendant David W. Jones, by their counsel, and the hearing of this cause as to them was resumed, and being concluded the court held the same under advisement.

Complainant's testimony.

UNITED STATES OF AMERICA, *District of Wisconsin, ss*:

Be it remembered that on this sixteenth day of September, in the year one thousand eight hundred and sixty-seven, I, Francis Bloodgood, a commissioner duly appointed by the Circuit Court of the United States for the district of Wisconsin, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did cause personally to appear before me, at my office in the city of Milwaukee, in said district, in pursuance of annexed stipulation, Edward J. Hill, to testify on the part of the complainant in a certain cause depending in the
40 Circuit Court of the United States for the said district of Wisconsin, at Milwaukee, Wis., wherein Matthew Bolles is complainant and David W. Jones and Mineral Point Mining Company are the defendants.

Circuit Court of the United States for the District of Wisconsin.

MATTHEW BOLLES, complainant,
vs.
DAVID W. JONES AND MINERAL POINT MINING COMPANY, defendants. } In chancery.

It is hereby stipulated by and between the parties hereto that the testimony of Edw'd. J. Hill may be taken before Francis Bloodgood,

esq., court commissioner for U. S. court at Milwaukee, on Monday, September 16, 1867, to be read on the trial in this cause, subject to all objections and exceptions which may be taken thereto as to competency, relevancy and materiality.

FINCHES, LYNDE & MILLER,
Solicitors for Complainant.
M. M. COTHREN,
Solicitors for Def't Jones.

Deposition of E. J. Hill.

And the said Edward J. Hill, being first duly sworn, did depose and testify, as follows :

My name is Edw'd J. Hill; I reside in Milwaukee; am a lawyer; 34 years of age; know the compl't, Matthew Bolles; I first saw him at No. 8 Worcester Square, in the city of Boston, the last of November, 1865; am the secretary of the Mineral Point Mining Company, and have been such since its organization, Mch. 15, 1865. The circumstances which led to its organization are well known to me, and are substantially these: In the winter of 1864 and 1865 I was employed at Mineral Point in bringing suits for the trustees of the State
41 Bank of Illinois, and in other matters, and took my family there. I formed the acquaintance of def't Jones and nearly all the prominent citizens of Mineral Point. The first intimation of the def't Jones having mineral lands was my being solicited by Hon. M. M. Cothren, to unite with him and others in purchasing a farm of 224 acres of def't Jones, and forming a mining company. The evening before I left Mineral Point, about 1st day of March, 1865, def't Jones called to see me and proposed that I should find purchasers for this farm, as he had understood from Judge Cothren that he could not devote the requisite time to it, as the judge was then gone away and we could not see him. I suggested to def't Jones towrite me his proposition in full; hence afterwards, on the 10th day of March, 1865, I received from him a letter, which I now produce and read.

(Note.—Exhibit "A," hereto annexed, is the letter.)

To which I replied substantially that I would try to find the purchasers. I went back to Mineral Point on the 11th or 12th of March, 1865, to see def't Jones and the lands described in the letter, (exhibit "A.") On my arrival there, I found that the most valuable mines on these lands belonged to Squires, Brenger, and Thomas; that they had on the 18th of February, 1865, obtained a charter for the Mineral Point Mining Company. Mr. Thomas asked me to draw a lease between def't Jones and Squires, Brenger, and Thomas, so that they could organize the new company under the charter and raise a working capital. I found differences existing between these parties of a serious nature, relative to their respective rights as landlord and tenants, and determined to let the matter drop, unless such differences could be reconciled. But to test the sincerity of both
42 Squires, Brenger and Thomas, I proposed to the latter to organize their company and sell to it their mines, rights,

tools, machinery, ect., and to def't Jones to convey to it his lands, each taking stock therefor; they both declined to do this then, and wanted to sell out entirely for cash. I then concluded to organize the company and take refusals for the property from both parties, and to try to sell enough stock in the markets to pay them for the property and get a working capital. I did this, with the assurances from both parties that if I could not sell stock in this way they would then convey their property respectively to the compeny, and let me try my first plan. So on the 15th of March, 1865, the def't, the Mineral Point Mining Company, was organized, and its proceedings are fully set forth in the records, of which I now produce an exemplification.

(Note.—Said exemplification, consisting of 26 leaves, is hereto annexed, marked exhibit "B.")

Immediately on the organization of the company, I returned to Milwaukee, got the prospectus printed, gave orders for the stock certificates and general books of the company; went back to Mineral Point, arriving there on the 28th of March, 1865, with certificates, and got them signed by the president. Then I went to Boston, Mass., and found that if I could get titles to the property I could sell the stock. Hence I returned and reached Mineral Point the 25th April, 1865. I had an interview with def't Jones on the same day, and told him I must have the title to his lands, and I told Squires, Brenger and Thomas, that I must have their mines, and that as a company we must proceed with business, as a mining and smelting corporation, purchase a furnace, employ more miners, and develop the property, and that then we could sell stock on our own terms. Squiers, Brenger and Thomas, said that if I could get the title from de-
43 fendant Jones they would convey their mines, tools, machinery, etc., to the company, and take pay in its stock. I succeeded in effecting this arrangement with def't Jones substantially. First, he (Jones) was to give the company a warranty deed with full covenants conveying the lands described in his said letter of March 8, 1865. Second, twenty-five thousand shares, or one-quarter of company's stock, were or was to be placed in name of Buttrick and Hill, agents, who were to convert the same and pay out of its proceeds twenty-six thousand dollars ($26,000) to def't Jones, and make commissions four thousand dollars, ($4,000,) thus providing for the purchase-money of the fee of the lands in the whole sum of thirty thousand dollars, ($30,000.) I effected this arrangement substantially with Squiers, Brenger and Thomas, also. First, they were to have [have] the company's stock or fifty thousand (50,000) shares for their mines, tools, machinery, rights, etc. Second, out of these shares, I was to have ten thousand (10,000) shares, and Col. E. L. Buttrick ten thousand (10,000) shares, for our services in organizing the company, perfecting purchases, etc. The balance of the capital stock of the company, to wit., twenty-five thousand (25,000) shares, was to be set apart for a working capital. Mr. Thomas voted against this arrangement and refused to go on, so I made an arrangement with him to purchase his interest for seven thousand dollars, ($7,000,) which was subsequently

perfected, and he was paid the seven thousand dollars. On perfecting of the arrangement with Thomas, he stepped out of the
44 company. Def't Jones was fully acquainted by me with the scheme and assented to it, but desired to be fully protected in case the stock scheme should prove a failure. To this we had no objection, and proceeded to perfect the arrangement. Def't Jones executed with his wife, on the 27th day of April, 1865, the warrantee deed which is annexed to and made a part of the bill of complaint in this case, and at the same time the company gave to def't Jones the agreement annexed to and forming a part of the said bill of complaint. It was, however, distinctly understood between def't Jones and myself that def't Jones was not to record this agreement, but to keep it secret and keep possession of lands, except so far as they were wanted by the company, to protect his rights in the same that I was to sell stock the same as if the agreement had no existence to raise a working capital and to pay him. It was further understood between defendant Jones and myself that in case more time was requisite for the conversion of the stock than the time specified in said agreement, he would at the expiration of such time extend it until I gave up the undertaking. In case any time I should abandon the undertaking, defendant Jones was to have all the stock, except such as might have been sold to bona fide purchasers, and take the management of the company. I felt such confidence in the scheme that I finally assured Jones that Buttrick and Hill was assume the stock set apart to purchase his lands by the company, at thirty thousand dollars, ($30,000,) and that they would convert it and pay him from time to time as it was converted, twenty-six thousand dollars, ($26,000,) looking to the stock for the four thousand dollars ($4,000) commissions. He agreed to the arrangement, saying, "Fix it exactly as you please, only see that I get my twenty-six thousand dollars, ($26,000.) He, however, added, "If you cannot convert
45 the stock, I will protect you and your partner from loss, and in case you can convert the stock you must see that I get my pay." The company then purchased a furnace, put it in complete running order, took possession of the mines; I sold the shares set apart for a working capital, and the company used the money in developing the lands and improving the property. When I went to Boston the first time, and before I got the titles, George G. Wilder, of Boston, became interested in the stock of the company. He assisted us (Buttrick and myself) in raising the working capital after we had perfected the arrangements for the title and property on behalf of the company, as I have stated. In July, 1865, he sent a party out to see the property of the company, a Mr. Gaylord, who was in his employ. Gaylord found to my surprise the agreement annexed to the bill of complaint herein on record at Dodgeville, contrary to Jones' express agreement to keep it secret. I went to Boston immediately and found that Wilder was and would be dissatisfied about the matter, unless he had assurances from def't Jones that def't Jones was acting in concert in these matters with us, Buttrick and Hill; so I wrote to Mr. Squires at Mineral Point to get such assurance

from def't Jones. In the mean time I had informed Squires of Jones' want of confidence in me, and his breach of faith in the matter of the agreement. About the 16th of September, 1865, I being then in Boston, received from Jones this letter, which I now produce.

(Note.—Said letter is hereto annexed, marked exhibit "C.")

I immediately showed this letter to Mr. Wilder, which seemed to satisfy him. I took a party of gentlemen to Mineral Point in October, 1865, to examine the property. We returned to Boston about the 1st of November. Our stock began to be in demand, and
46 desiring to have def't Jones correct his mistake fully in regard to the recording of the agreement, I telegraphed him to come to Boston. He and Col. Buttrick came there together. I met them at the Worcester depot, and took them to rooms I had engaged for them at the Parker House. They arrived in the evening; this was not far from the 20th November, 1865; I do not remember the exact date. The next morning I had an interview with def't Jones; I informed him that I had seen many gentlemen in reference to the stock of the company, and that I could sell the same, but that since he had recorded the agreement I did not feel satified to sell any more unless he was present, and that if he relied on that agreement against the purchasers of the shares in Boston, we must state distinctly and fully to them of its existence and the office it was to perform in the matter. He said he did not think it best to say anything about the agreement; that it had been put on record by mistake, and that he would cancel the record when he got home. He said if Buttrick and Hill would take the stock at thirty thousand dollars ($30,000) cash from the company and account to him for the same as cash, he would consider it full payment by the company, and then with the officers of the company represent to parties considering the propriety of taking stock that he had no claims against the company nor interest in the stock. I agreed to this, but desired to consult with Colonel Buttrick before binding the firm of Buttrick and Hill to the same. I immediately saw Col. Buttrick and told him what I had done or proposed to do, and he agreed to it. I saw def't Jones again and informed him that Buttrick and Hill would receive the stock from the company for cash at thirty thousand dollars, ($30,000;) that is to say, the stock which had been set apart in the name of Buttrick and Hill, agents, for the purpose of paying for the fee of the lands, but that he must given as a reasonable time to convert it, in which case we would
47 account to him for the purchase-money for the lands, the same as though the company had paid us, Buttrick and Hill, the cash at that time. He said this was satisfactory all around, and to go ahead and say nothing about the agreement. I then arranged with Doctor Olmstead, who was a stockholder, to introduce us to broker, and he introduced us to the complainant, Matthew Bolles. I first met the complainant with Buttrick and Jones, at No. 8 Worcester Square, by appointment. The next day I arranged for the raising of the working capital of the company with the complainant. When I closed the arrangement with complainant for the sale of the working capital I told complainant that after we had that sold, Buttrick

and Hill had other shares to sell. Complainant called a meeting of his friends at "Parker's," the next day, I think; about twenty gentlemen were present. Col. Buttrick, def't Jones and I, stated to the gentlemen present what we knew about the property of the company; that the company purchased its lands of def't Jones and had paid Jones therefor. We had two other meetings at complainant's house, No. 211 Shawmut avenue, on the succeeding days in the evening; at each evening the same statements mere made. I had an abstract of the property with me and a certificate from the register of deeds, together with the warrantee deed from Jones, and exhibited them at all the meetings. At the last meeting at complainant's house I stated that I had these papers, taking them from a side pocket and offering them to several gentlemen present. One Hezekiah S. Chase, who seemed deeply interested in the scheme, sat nearer to me than anybody else. I held the papers towards him; he waived them back and turned to def't Jones and said, "Well, Col. Jones, let me ask you one question, have you got your pay for this land?" Def't Jones answered, "Yes, every cent of it; the company owes me
48 nothing." He walked to and fro and further said, turning to Mr. Chase, "And I am sorry for it, for I have put my money where I am afraid it is not so safe." All present were at that time busy looking at specimens of lead and zinc ores and maps of and from company's mines. Everybody stopped and looked at Mr. Chase, for he spoke in a nervous and emphatic manner, so loud that he could have been heard throughout the parlors. I then handed the papers to Col. Buttrick, and he informed all present of their import. The next day we opened the subscription books at complainant's office, No. 90 State street; nearly all the persons who were present at these meetings came in and took stock, and paid in their money. We run out the working capital of the company first, and then sold our individual shares.

One day after we had sold shares for the company, and received from seventy thousand to eighty thousand dollars into the treasury, def't Jones came to my room at "Parker's" and insisted that I should draw from that fund enough money to settle with him and let him go home. This I declined to do, when he became very angry and left my room abruptly. The next morning before I was up, Moses M. Strong, of Mineral Point, who was then in Boston, came to my room at Parker's and said that Jones was disposed to get impatient, and urged me to settle with him at once, otherwise he feared that he would break faith with me. I dressed myself and went out with Strong and met Jones. Jones said, "Hill, some of the folks have found out about the agreement, and I fear that you will not be able to sell any more stock; now, I think, you had better pay me and let me go home." I told him to come down to State street and I would show him that everything was all right. He took my arm, and as we were passing down the street, he said, as near as I can now remember, "Through me and my influence, and with my property and upon my representations here, you are making a good thing. I have been unfortunate. My brother-in-law cheated me. My family

has been expensive. Now, I think you had better give up
49 the four thousand dollars ($4,000) and pay me thirty thousand dollars ($30,000) net for the lands. There is an undercurrent workng against you here which you do not understand. If you will do this, I can and will help you through with this and in other matters." These are his words, as near as I can remember. I was surprised at this proposition, and replied that I would consult with Col. Buttrick, to whom I had assigned part of the contract for the four thousand dollars, ($4,000.) Nothing afterwards was ever said by either def't Jones or myself on this subject to each other. On that day and very shortly after this conversation I sold two thousand (2,000) of Buttrick & Hill's shares for five thousand dollars ($5,000) net, and purchased from the Mount Vernon National Bank a draft for that amount on the Tenth National Bank, New York, payable to my order, and took it to def't, Jones, at the Adams House, where he was then stopping, and endorsed and delivered the same to him on account. He was very pleasant and accommodating, and told me to take time and not sacrifice the stock.

About this time complainant, who was then our broker, was taken very sick, and was confined to his house for three our four weeks, so that we had to suspend for that time the further sales of the stock. Def't, Jones, left Boston; I remained until complainant had recovered and had for us (Buttrick & Hill) converted nearly enough stock to enable us to settle with def't, Jones. About the 28th of January, 1866, Buttrick and myself met Jones by appointment at Mineral Point; finding some incumbrances upon the land, which Jones was to pay and satisfy, we determined not to settle with Jones in full at that time, although we had authority from our banker to draw for the full amount. We concluded to pay him fifteen thousand dollars ($15,000) more on account, and for that purpose delivered to def't, Jones, two (2) drafts, which I now produce.

(NOTE.—Said drafts are hereto annexed, marked, respectively, exhibits "D" and "E.")

These drafts are in Col. Buttrick's handwriting. They
50 bear date Jan'y 29, 1866. They are signed and drawn by "Buttrick & Hill." The one (exhibit "D") is for five thousand dollars, ($5,000.) The other ("exhibit E") is for ten thousand dollars, ($10,000.) The first one, (exhibit "D,") at thirty days after sight; the other (exhibit "E") at sight, both to the order of def't, David W. Jones; both drawn on Matthew Bolles & Co., bankers, 90 State street; both accepted February 5, 1866. "M. Bolles & Co., per E. J. Cooper, attorney." These were paid. The first (exhibit "D") at maturity; the other (exhibit "E") by installments, to accommodate acceptors.

Afterwards I did not see def't, Jones, except in April, 1866, at Mineral Point, when he urged me to get the rest of his money for him out of the stock. I told him I was going to Boston, immediately, for that purpose. I went to Boston, and afterwards, on the 7th of June, 1866, being in funds, and the incumbrances on the company's property all having been removed by Jones and other parties, I de-

termined to close up all matters between Buttrick & Hill and defendant, Jones, at once. Buttrick & Hill had paid to Jones, on account of the purchase money the following sums: by Col. Buttrick, at Mineral Point, in November, 1865, cash, one hundred dollars, ($100;) by E. J. Hill, in Boston, cash, fifty dollars, in December, 1865, cash, five thousand dollars, ($5,000,) in December, 1865, by draft, as I have stated; cash paid for goods, a dress for his wife and a dress for his daughter, twenty-nine dollars, ($29 00,) in December, 1865; and deft', Jones, owed Buttrick & Hill, commissions, as per agreement of March 8, 1865, four thousand dollars, ($4,000;) and Buttrick & Hill had also paid him the fifteen thousand dollars, ($15,000,) by exhibits "D" and "E," above mentioned, which left a balance of five thousand eight hundred and twenty-one dollars, ($5,821.) to make up the full sum of the purchase money which Buttrick & Hill had received from the Mineral Point Mining Company. Hence I wrote to the def't, Jones, the letter, a copy of which I here produce.

(NOTE.—Said copy is hereto annexed, marked exhibit "F.")

I enclosed in the letter a statement of Buttrick & Hill's ac-
51 count with the def't, David W. Jones, as it appears in a copy of the same, which I now produce—

(NOTE.—Said copy of account is hereto annexed, marked exhibit "G.")

together with the draft mentioned in the letter, which I now produce.

(NOTE.—Said draft is hereto annexed, marked exhibit "H.")

When at Mineral Point in April, 1866, I borrowed two hundred and fifty dollars of def't, Jones, and gave him Buttrick & Hill's note therefor, which is the one referred to in the postscript to exhibit "F;" that is my letter of June 8, 1866.

And that there might be no mistake or misunderstanding relative to the item is said account stated, "commissions, as per agreement, $4,000," I took pains to make and enclose an exact copy of the letter, marked "exhibit A," from def't, David W. Jones, to myself, dated March 8, 1865, noting thereon that the same had been by me assigned to Buttrick & Hill; a fact which was well understood by def't, Jones, shortly after that letter was written, as I had explained to him at the outset that the matter was a partnership affair.

I left Boston the same day I wrote the letter, dated June 8, 1866, and came to Milwaukee. On the 15th June the $250 note came in through J. A. Noonan, which I now produce.

(NOTE.—Said note is hereto annexed, and marked exhibit "I.")

I paid this note by a sight draft on Matthew Bolles & Co., which I now produce.

(NOTE.—Said draft is hereto annexed, marked "exhibit K.")

These drafts were paid, as stated in the letter from the drawers, which I now produce.

(NOTE.—Said letter is hereto annexed, marked "exhibit L.")

These drafts were returned to my firm, "Buttrick & Hill," on our settlement with our bankers, Messrs. Matthew Bolles & Co.

The endorsement, David W. Jones, or D. W. Jones, upon
52 the back of these drafts, is the signature of defendant, Jones. I am familiar with his signature, and know it to be his.

No reply to my letter of 8th June, 1866, in firm name, "Buttrick & Hill," was ever received by me or my firm from defendant, Jones.

On learning that the drafts had been presented and paid, I supposed that Buttrick & Hill had made a full, complete and final settlement between def't, Jones, and themselves, and that Jones considered himself paid and fully satisfied for the thirty thousand dollars, ($30,000,) the consideration which he was to receive for his mining property, sold to the Mineral Point Mining Company April 27, 1865.

Until I was in Boston, in October, 1866, when E. J. Cooper, the superintendant of the company, came to me and informed me that Jones had presented some very heavy claims against the company. The matter came up informally at a meeting of the board of directors of the Mineral Point Mining Company, of which board Mr. Cooper and I were then both members. We directed Mr. Cooper to obtain from def't, Jones, a statement in writing of what he claimed was his due from this company.

Whereupon the def't, Jones, wrote to Mr. Cooper a letter, which I think was subsequently sent to me. Col. Buttrick procured a copy. I have mislaid or lost the original, but produce the copy of the letter which Col. Buttrick made.

(NOTE.—Said copy is hereto annexed, marked exhibit "M.")

My law firm in October, 1865, was "Buttrick, Hill & Hull;" at Col. Buttricks' suggestion I assigned the contract of March 8, 1865, (exhibit "A,") to our firm; see assignment on "exhibit A," dated October 25, 1865. By the terms of our co-partnership articles, which I here produce—

(NOTE.—Said co-partnership articles are hereto annexed, marked "exhibit N.")

Mr. Hull never acquired any interest in the assets of the firm. This firm was dissolved, as appears by exhibit N, January 31, 1866, when our law firm again became "Buttrick & Hill."

The original appropriation of stock, out of which Buttrick
53 & Hill were to obtain for def't, Jones, twenty-six thousand dollars, ($26,000,) and for themselves four thousand dollars, ($4,000,) was fully understood by the company, at the time it was made, to be for that express purpose, and fully explained to def't, Jones, and assented to by him. The retransfer of two-fifths (2-5) of the twenty-five thousand (25,000) shares transferred to Buttrick & Hill, agents, back to the company, for the purpose of providing for a working capital, was also fully explained to def't, Jones.

In May last I went to Mineral Point, and while there called to see def't, Jones. Up to this time no intimation from him to my firm or to me had been made by def't, Jones, relative to our settlement of June 8, 1866. I asked Jones then, for the first time, if he had not received my letter of June 8, 1866, with the enclosures. He said

that he had. I asked him if he did not understand that I sent the draft to him for the balance due him for the purchase money which Buttrick & Hill had received from the Mineral Point Mining Company for land sold by him to that company. He replied that he had received the letter and fully understood it. I asked him if he denied that he had agreed to pay me four thousand dollars ($4,000) for selling his lands. He answered, "No, but you agreed to give up the commissions, and I will have it out of the company, or take it out of your hide." He became so very angry that I left him in disgust.

These are all the facts that I know pertinent to the issues joined in this cause.

EDW'D J. HILL.

This deposition, after having been reduced to writing as given by the witness, was read over by him, and then subscribed by him in my presence, and in the presence of the counsel for both parties, who appeared, (to wit, for the compl't and for the def't, Jones.)

54

FRANCIS BLOODGOOD,
Examiner in Chancery, Commissioner, &c.

NOTE.—The counsel for the def't, Jones, (the Hon. M. M. Cothren, after the reading of said deposition by said witness, on the conclusion of the direct examination, stated, that he did not desire to cross-examine the witness; that he did not appear for that purpose, but only for the purpose of stipulating that the deposition of the witness might be taken and read in evidence in this cause, and desired the examiner so to certify in returning said deposition.

FRANCIS BLOODGOOD,
Examiner, &c.

Ex. A.—F. B., com'r, &c.

MINERAL POINT, *March 8th*, 1865.

E. J. Hill, esq.:

DEAR SIR: Judge Cothren has gone to Lancaster without consummating the purchase of my miner-land. I therefore renew to you the proposition heretofore made to pay you the same I promised him, in case you succeed in finding purchasers for the land, to wit: If you sell it for thirty thousand dollars, I will pay you four thousand dollars for your trouble.

The land is decribed as follows, to wit: The NE. ¼ and the NW. ¼ of the SE. ¼, and a part of the NE. ¼ of the SE. ¼ of sec'n one, (1,) township No. four, (4,) range No. two (2) east, in Iowa co., containing two hundred and twenty-four acres, (224 a.) The NE. ¼ sec'n (160 acres) is all within the corporate limits of Mineral Point, and I have been offered for quarter-acre lots upon said tract, (for the surface, reserving the mineral,) for building purposes, from $50 to $75 each. About 175 acres is under good fence, and sub-

55 divided, and the greater part under cultivation. There are upon the tract the celebrated "Irish diggings," the "Pump diggings," the Squires & Cos. diggings," the "Tiff range," the "Hoar range," the "Tony & Allen range," and several other ranges and discoveries of lead and zinc ores.

The price I ask for the property is a fair price for the surface, and the mineral advantages are much more valuable than the surface. But I am anxious to sell as soon as I can and go to Mexico.

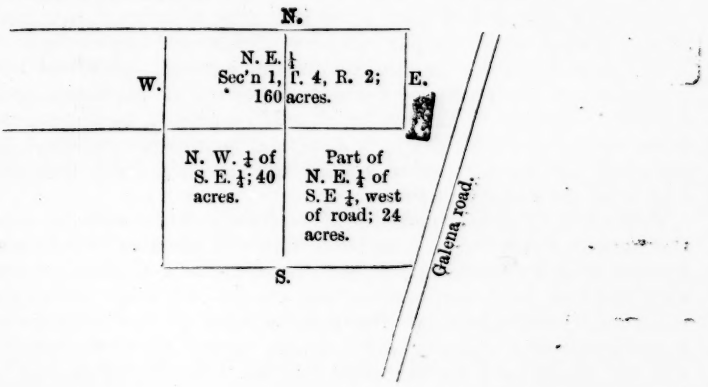
If you should be at Madison soon, it would be well, perhaps, to call on Mr. Hopkins and get the map (Cothren furnished him the map) now in his possession, or a copy of it, showing the different ranges, &c., or you might get it by writing for it. Robert Ansley has a general knowledge of the tract. The tract has been mined upon for upwards of thirty years, and millions of lbs. of mineral raised therefrom, and yet the best of the ranges have scarcely been touched. Some of the best ranges are in the water, and will require machinery or levels to fully develope the ranges.

The agent of a New York company was after me night before last to purchase the tract. He wanted me to set a price; this I declined doing until I had redeemed my promise to you. I told him I could not submit nor receive a proposition for some days, but that if I failed in selling to parties negotiating for it, I would be ready to sell to them.

Very respectfully, your ob'd't s'v't,

D. W. JONES.

[25-cent stamp, canceled, Mar. 8, '65.
D. W. J. & E. J. Hill.]



56 For and in consideration of one dollar to me in hand paid, I hereby transfer and set over unto Buttrick, Hill & Hall all my interest of every kind and nature in the within contract.

Milwaukee, Oct. 25, 1865.

EDWARD J. HILL.

[2-cent stamp. E. J. H. Oct. 21, 1865.]
[2-cent stamp. E. J. H. Oct. 1, 1865.]
[2-cent stamp. E. J. H. Oct. 1, 1865.]

"Exhibit A," referred to in the annexed deposition of Edw'd J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c,.

Exhibit B, referred to in the annexed deposition of E. J. Hill.

FRANCIS BLOODGOOD,
Comm'r, &c.

Mineral Point Mining Company.

CHARTER.

AN ACT to incorporate the Mineral Point Mining Company.

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows :

Section 1. Joel C. Squires, Benjamin F. Thomas and Philip Brenzer, their associators, successors and assigns, are hereby created a body politic and corporate, by the name and style of the Mineral Point Mining Company, and by that name shall have perpetual succession, and shall be competent to sue and be sued in any court of equity or law whatever; to have and to use a common seal, and to alter the same at pleasure; to establish and change any by-law for the government of said company; to purchase, hold and dispose of real estate, leases, mines, minerals and personal property of all kinds; to mine, smelt and vend mineral and the products thereof; to erect, dispose of and issue such number of shares of the stock of said company as may be ordained by a vote of said company;
57 to determine the par value of shares, and have a right to pay in stock of the corporation for such mining rights and interests in real estate as it may be deemed necessary to purchase and hold for the operation of the works of said company, and generally to have, enjoy and exercise all rights and privileges incident to corporations for the purpose of mining and smelting lead, and all other metals in the county of Iowa.

Section 2. The first meeting of said corporation may be called, by the persons named in this, at such time and place as may be mutually agreed upon by them, and at such meeting, and at all other meetings duly notified, said corporation may make and alter such by-laws, rules and regulations for the management of the business of said corporation as a majority may direct, provided that such by-laws are not repugnant to the laws of the United States nor of this State.

Section 3. The said corporation shall, at their first meeting, elect one of their number president, and one thereof secretary, and also a treasurer of said company, who shall hold their office for one year, and until their successors are elected by the stockholders of said company, at a meeting specially called for the purpose of electing officers of said company.

Section 4. This act shall take effect and be in force from and after its passage.

WM. W. FIELD,
Speaker of the Assembly.
WYMAN SPOONER,
President of the Senate.

Approved February 18, 1865.

JAMES F. LEWIS, *Gov. Wis.*

FIRST MEETING.

Pursuant to agreement under and by virtue of an act of the
58 legislature of Wisconsin entitled "An act to incorporate the Mineral Point Mining Company," approved February 18, 1865, the first meeting was called by Joel C. Squires, Benjamin F. Thomas, and Philip Brenger, and their associate, Edward J. Hill, at the banking-house of Benjamin F. Thomas, in the city of Mineral Point, on Wednesday, March 15, A. D. 1865, at 2 o'clock p. m.

MINERAL POINT, *March* 15, 1865, 2 *p. m.*

Joel C. Squires, Benjamin F. Thomas, Philip Brenger and Edward J. Hill met at the banking-house of Benjamin F. Thomas, under and pursuant to an agreement to meet and organize the Mineral Point Mining Company, pursuant to and by virtue of an act of the legislature of the State of Wisconsin entitled "An act to incorporate the Mineral Point Mining Company." approved February 18, 1865.

The meeting was called to order by Joel C. Squires, the charter was read, and, on motion of Mr. Hill, Mr. Squires was elected president of said company, and Benjamin F. Thomas was elected treasurer thereof. On motion of Mr. Brenger Mr. Hill was elected secretary of said company. On motion of Mr. Thomas Henry Madden was appointed civil engineer for the company, and Philip Brenger was chosen practical miner, and Edwin L. Buttrick attorney.

On motion of Mr. Thomas it was unanimously resolved that the president and secretary be and hereby are appointed a committee to draft a code of by-laws for the government of the company, and report the same to-morrow. And on motion of Mr. Hill the meeting adjourned until 16th March, inst., at same place at 9 a. m.

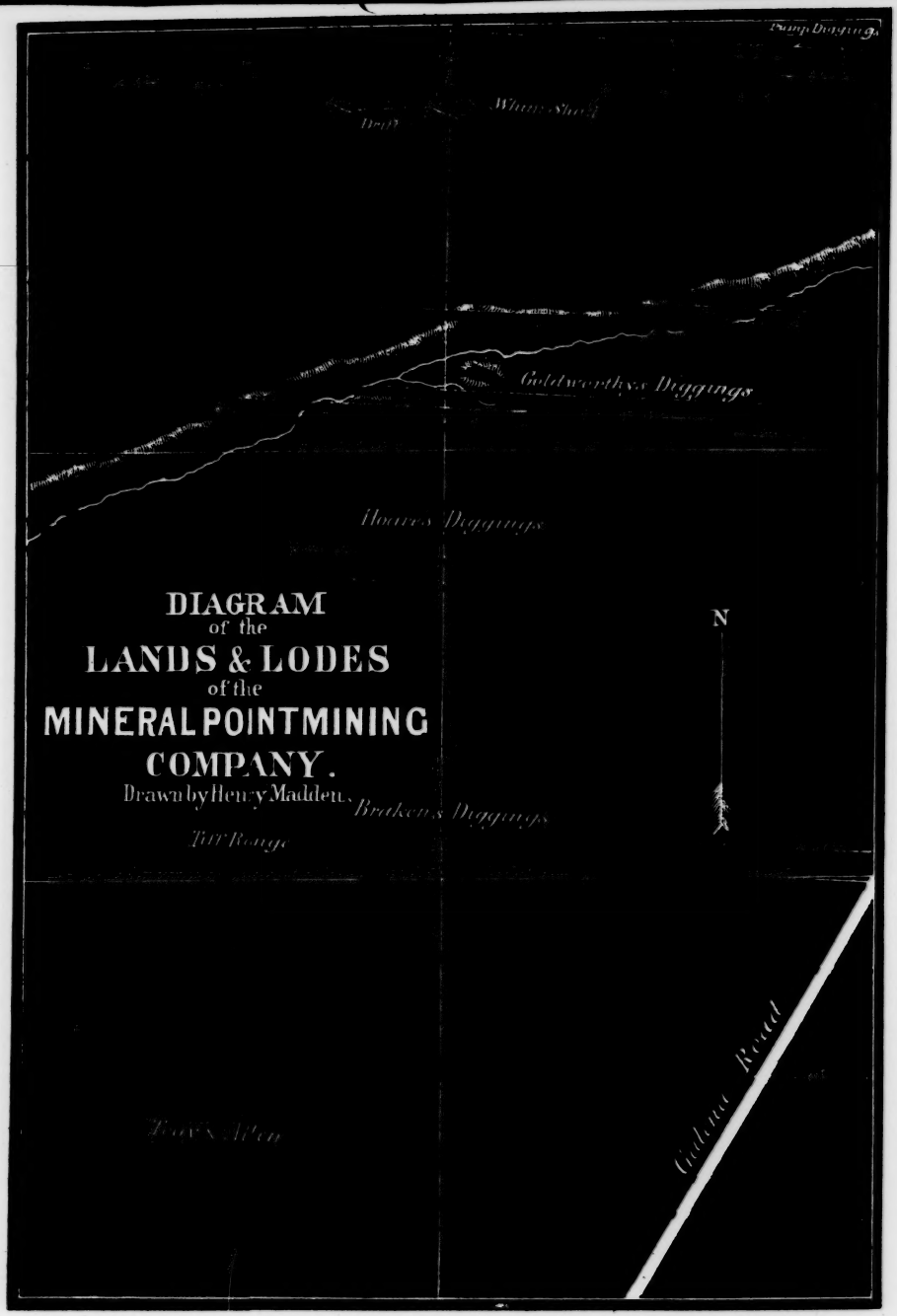
Attest:

EDWARD J. HILL, *Secretary.*

MINERAL POINT, WIS., *March* 16, 1865.

59 Pursuant to adjournment, corporators met at the banking-house of Benjamin F. Thomas this day at 9 o'clock a. m. The records of the first meeting were read and approved. The secretary presented and read the following report, to wit:

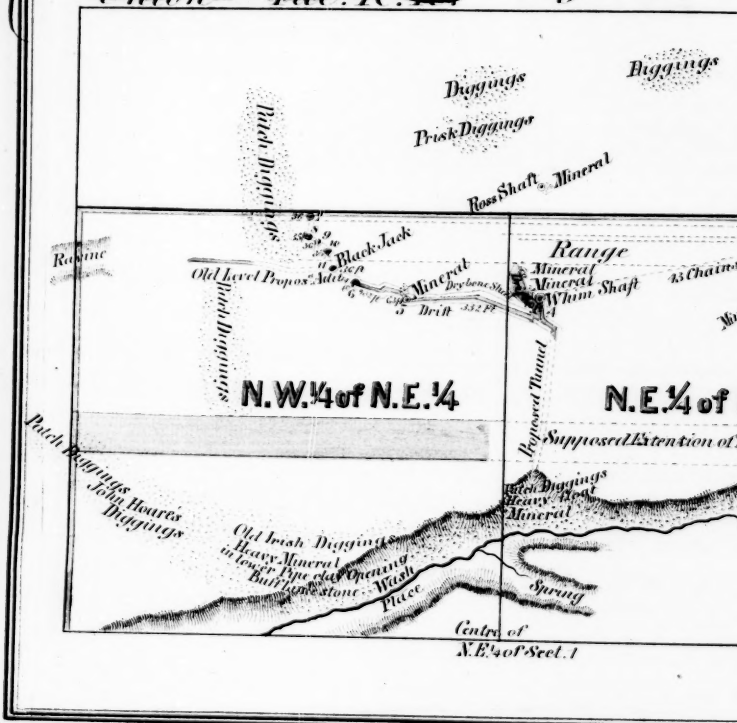
Mr. President and gentlemen of the Mineral Point Mining Company: Your committee, appointed to draft a code of by-laws for this company, do hereby respectfully report that they recommend the adoption of the following:



No 149 Lodes vs Bolles Page 63 Plan 1

~~A. Bridges Whangaroa~~
~~vs~~
~~Union Bay R. P.~~

Page: 64.



64.

(64) No. 4 Sons vs Bolles Page 64. Plate II

BY-LAWS.

1. The officers of this company shall be a president, secretary, treasurer, practical miner and attorney, who together shall constitute a board of five directors, and also a civil engineer, and in case any of said officers shall resign or otherwise become incapable of holding and discharging his trust, the vacancy may be filled by the remaining directors.

2. The capital stock of this company shall consist of the sum of five hundred thousand dollars, divided into shares of five dollars each par value, which shall be transferable only on the books of the company, either in person or by attorney. Each stockholder shall be entitled to a full paid stock certificate signed by the president and secretary, and under the corporate seal.

3. A majority of the stockholders, which majority shall consist of the holders of a majority of the shares, may at any time and place they shall deem expedient hold meetings and transact the business of the corporation. At all meetings of the stockholders the holders of a majority of the shares of the stock of the company shall constitute a quorum to do business, and the holders of the stock of this company may appear in person by proxy or by attorney, and in case any non-resident of this State shall own or hold any of the stock of this company, the secretary (or president or presiding officer in the absence of the secretary) shall represent such non-resident stock in the company as his attorney, and shall vote and do all acts for such non-residents, the same as if he were present in person, unless such non-resident shall appoint an attorney or proxy residing in this State.

4. The directors or a majority of them shall manage and control all the business of the company in mining and smelting, and the purchase and disposal of the personal property of the company.

5. All conveyances of real property shall be made under and by virtue of a resolution of the board of directors, and under the seal of the corporation and the signature of its president.

6. The seal of this company shall be a devise of which the following is an impression or copy, to wit:

M. P. M. Co.

7. The president shall be superintendent of the company's mines and works, and shall have general supervision of the business of the corporation.

8. The president shall preside at all meetings, and, in case of his absence or disability, any of the stockholders may be elected to fill his place at such meetings. The treasurer shall receive, collect, hold and pay out all funds belonging to the company, and perform all

other duties pertaining to such office. The secretary shall keep a record of all meetings of the company and directors, and, together with the president, may issue certificates of stock to stockholders, and shall open and keep the stock ledger and transfer books, or cause them to be kept at such place as he may direct, and shall make or cause to be made transfers of stock upon application of any stockholder, either in person or by attorney, but no stock shall be
61 transferred while subject to any assessment, nor while any stockholder is indebted to the company.

All of which is respectfully submitted.

(Signed) JOEL C. SQUIRES, *President.*
EDW'D J. HILL, *Secretary.*

Which report, on motion of Mr. Thomas, was thereupon accepted and adopted.

On motion of Mr. Thomas, by-law No. 8 was amended by adding thereto: The practical miner shall have the supervision of the mines, subject to the control of the superintendant.

The civil engineer shall make the necessary surveys of the company's mines and works, and do and perform such other things as may be agreed upon between him and the company.

The secretary reported that he had obtained refusals for the necessary mining rights, miner tools and personal property, and of the fee simple of Col. D. W. Jones, city farm, containing 224 acres of land, more or less, and that he was about to return to Milwaukee and perfect the arrangement for issuing a printed prospectus.

The president presented a survey of said lands and of the mines of Squires, Brenger and Thomas, and an abstract of the title thereto.

On motion of Mr. Thomas, the secretary was directed to obtain 500 stock certificates and 500 copies of the prospectus and lithograps of surveys, &c., and to sell enough of the capital stock to original subscribers to raise $100,000, providing that no share of the stock of this company be sold for less than $1 per share.

On motion of Mr. Brenger, the president was empowered to sign and place in the hands of the secretary 500 stock certificates to be accounted for by him.

On motion, meeting adjourned to meet again at call of secretary.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

62 MINERAL POINT, *March* 28, 1865.

Pursuant to a call of the secretary, the corporation met at the banking-house of Benjamin F. Thomas at 9 a. m. this day.

The proceedings of the last meeting were read and approved.

The secretary presented a copy of the printed prospectus as follows, to wit:

[Here follow maps marked page 63 and page 64.]

65 Charter and scheme of the Mineral Point Mining Company. Capital stock, $500,000. 100,000 shares at $5 per share par value. Chartered Feb. 18, 1865. Organized March 15, 1865. Joel C. Squires, Mineral Point, president and superintendent. Edward J. Hill, Milwaukee, secretary. Benj. F. Thomas, Mineral Point, treasurer. Philip Brenger, Mineral Point, Practical Miner for company mines. E. L. Buttrick, Milwaukee, counsel Henry Madden, Mineral Point, civil engineer.

66 *Charter.*

AN ACT to incorporate the Mineral Point Mining Company.

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. Joel C. Squires, Benjamin F. Thomas and Philip Brenger, their associates, successors and assigns, are hereby created a body politic and corporate by the name and style of the Mineral Point Mining Company, and by that name shall have perpetual succession, and shall be competent to sue and be sued in any court of equity or law whatever; to have and to use a common seal, and to alter the same at pleasure; to establish and change any by-law for the government of said company; to purchase, hold and dispose of real estate, leases, mines, mineral and personal property of all kinds; to mine, smelt and vend mineral and the products thereof; to erect, dispose of and issue such number of shares of the stock of said company as may be ordained by the vote of said company; to determine the par value of shares, and have the right to pay in stock of the corporation for such mining rights and interests in real estate as it may be deemed necessary; to purchase and hold for the operation of the works of said company, and generally to have, enjoy and exercise all rights and privileges incident to corporations for the purpose of mining and smelting lead and all other metals in the county of Iowa.

Section 2. The first meeting of said corporation may be called by the persons named in this act, at such time and place as may be mutually agreed upon by them, and at such meetings, and at all other
67 meetings, duly notified, said corporation may make and alter such by-laws, rules and regulations for the management of the business of said corporation as a majority may direct; provided that such by-laws are not repugnant to the laws of the United States nor of this State.

Section 3. The said corporation shall, at their first meeting, elect one of their number president, and one thereof secretary, and also a treasurer of said company, who shall hold their office for one year, and until their successors are elected by the stockholders of said company, at a meeting specially called for the purpose of electing officers of said company.

Section 4. This act shall take effect and be in force from and after its passage.

Approved February 18th, 1865.

68 *Mineral Point Mining Company.—Prospectus.*

This company has been organized under the foregoing charter for the purpose of purchasing and working lead mines at the city of Mineral Point, in the county of Iowa and State of Wisconsin.

It is proposed to invest $75,000, at once, in real estate, within and adjoining the corporate limits of the city of Mineral Point, and more particularly the following described land, to wit: The NE. quarter, the NW. quarter of the SE. quarter, and a part of the NE. quarter of the SE. quarter of S. 1, T. 4, R. 2 east of the fourth principal meridian, being 224 acres of land, more or less. While valuable mineral land might be purchased for less money, the expense of proving the same, sinking shafts, prospecting and experimenting, with the uncertainty of success, would probably more than make the difference. This tract of land has been successfully worked for a period of nearly thirty years. Rich veins and lodes of mineral have been discovered upon it from time to time, until it is now definitely known that the mineral ranges specified in the accompanying plate (I) exist. Each vein in turn as discovered has been considered the most valuable, and all have been worked until at least $100,000 have been actually expended in developing the mineral resources of the tract. Immense quantities of mineral have been raised, as will appear below, and yet very little impression has been made upon the rich deposits. It is the object of the company to work these veins and reap the fruit of all these valuable experiments and discoveries. Such an opportunity for a paying investment in mineral land rarely can be found, for the reason that lands that have been thoroughly tested and known to contain mineral in large quantities are not in the market at any reasonable price.

69 Col. D. W. Jones, formerly secretary of state of Wisconsin, and a resident of Mineral Point, purchased the premises in question at an early day, and has issued licenses and leases for mining to different parties, at a rental from 1-5 to 1-10 of the amount of mineral raised. His income from these rents has been quite large, and he has justly regarded the property as very valuable. Col. Jones is about to leave the State permanently, and desires to dispose of all of his property. Under these circumstances the company have been able to get the refusal of the fee simple of the lands in question.

In December last Messrs. Squires, Brenger and Thomas, commenced mining upon the northern range, and have, at a cost of $1,300, taken out about $5,000 worth of mineral, and at the same time disclosed new mineral-bearing crevices.

By an arrangement with Col. Jones they have a perpetual lease of that range, subject to forfeiture only in the event of a failure to work the mine. The $75,000 proposed to be invested in real estate by the company embraces their interest, machinery and tools, together with all other mining interests pertaining to the tract. Messrs. Squires and Brenger are practical miners and have had large experience in lead mining. Their discoveries impelled them to apply for the char-

ter of this company, their aim then being to develope and work the northernmost range.

A correct statement regarding this range is as follows :

These diggings were discovered and worked by several different parties and companies about twenty-five years since, but lead then being worth only twenty-five to thirty dollars per ton, the vein being under water and at too great a depth from the surface for pumping, without expensive machinery, and the parties having the mining right being generally composed of miners of limited means, the zinc ores—drybone and blackjack—found in unusual abundance in the mine, being then of no market value, the working rights were frequently transferred from one company to another, and it is probable
70 that none of them, except perhaps the first company, have realized the profits expected from successful mining. This was owing to the causes above stated, the low price of ores at the time, and the want of skill and experience in draining the ground worked. But notwithstanding the want of skill and the rude and expensive method of unwatering the mineral, the aggregate amount of lead ore raised from shafts designated on the accompanying plate (II) as Nos. 1 and 2 was enormous, taking into consideration the small space worked. Col. Jones states that the company composed of Vivian and others raised from these shafts over 1,500,000 lbs. of lead ore, upon which he received dues.

Shaft No. 3 was sunk by the Mississippi Mining Company in 1854, and shaft No. 2 was enlarged and sunk some 20 feet deeper to the lower pipe clay opening, but owing to the water it could not be ascertained whether there is mineral in paying quantities in this opening. The main vein, so far as known, and the one proposed to be worked by this company, is found in the glass rock opening, at a depth of about eighty feet from the surface, and is composed of common lead ore, dry bone and black jack of the first qualities.

Shafts Nos. 1, 2 and 3, since 1854, have been but little worked, and little or nothing has been done on that part of the range, but Col. Jones estimates the amount of mineral raised from shaft No. 3 at 3,000,000 lbs., while it is conceded by all parties and miners familiar with the premises that many times that amount of mineral yet remains, that could be profitably mined upon a removal of the water.

Shafts Nos. 5 and 6 were sunk and drifted to some extent in 1847–8, and although several parties worked here with more or less profit, nothing efficient towards proving these diggings was accomplished until 1858–9, when Messrs. Mattheissen and Hegeler, proprietors of the La Salle zinc works, commenced working here, for the purpose of obtaining zinc ore. In this they were eminently successful, not only in obtaining dry bone, in immense amounts, but also finding lead ore in paying quantities. Messrs. M. and H drifted shafts
71 Nos. 5 and 6 together, and also connected them with shaft No. 4, as shown by the accompanying plate, (II.) Col. Jones estimates the amount of lead ore taken from these shafts at 300,000 lbs. and 1,000 tons of dry bone: shaft No. 7 is now open and can be

worked, and Nos. 8, 9, 10 and 11 are closed, but can be easily cleaned out and opened.

The drifts in No. 7 extended but a few feet from the shaft, and it is said yielded about 30,000 lbs. of lead ore and 50 tons of dry bone.

Nos. 8, 9, 10 and 11 were rich in zinc ores, but were never much drifted. It is estimated that from these shrfts, and the patch further west, not less than 100,000 lbs. of lead and 100 tons of zinc ores have been raised.

Such was the condition of these diggings when they became the property of the corporators, in Nov., 1864. Thus far they have carried a drift northwardly from shaft No. 4, for the purpose of crossing the range at right angles about 150 feet, and have driven southwardly a prospect drift about 140 feet, for the purpose of finding a range believed to exist in that direction; this belief is based on the fact, that on the adjoining tract, on the east, has been worked the very heavy range known as the Barber or Jo Read lode, which has yielded over 1,500,000 lbs. of lead ore, while on the western slope of this quarter section there has been found large float mineral and dry bone.

It will be observed that shaft No. 4 is not on the range or vein, being not less than one hundred and fifty feet too far south. In sinking this shaft immense quantities of water were found, and the work in the drifts could not be prosecuted, were it not that the water finds an outlet through a crevice in the bottom of the drift, which was discovered in driving up from shaft No. 5. The drifts west of this crevice or sink are flooded with water to an extent that prevents work in them for several months in the spring and renders them wet and more or less muddy during the whole year.

72 Before driving north in shaft No. 4, a drift had been driven west about 175 feet, in the last forty or fifty feet of which a number of north and south crevices were crossed, all of which are so near each other that they form a connected and continuous sheet of ores from six to twelve inches in thickness, and improving in thickness and richness as the work proceeds towards the range lying north. From the end of the northern drift in shaft No. 4, to the north line or boundary of Jones' farm, is one hundred and seventy feet, and north of this line, at a distance of eighty feet, is the shaft of Mr. John Ross, from which he is taking a fine sheet of mineral of several inches in thickness. The ores in this vein are in the form of a horizontal sheet, and but little mineral has been found thus far in vertical crevices. The course of the principal crevices forming the vein is nearly due east and west. The east and west crevices are crossed by great numbers of counters and north and south feeders, (as the miners term them,) which are always connected with the deposit of mineral in flat openings.

It is proposed to drain this mine, by constructing an adit, commencing at the extreme western end of the range on a water level of the glass rock opening, or rather by cleaning out and completing an adit commenced a number of years ago, but never finished or connected with the range. It is estimated that two good miners can

finish and secure this level in two months' time, so that no further difficulty from water would be encountered at the western end of the range. It is also proposed to extend the south drift from shaft No. 4 in a southerly direction to a deep ravine which at this point approaches within a few yards of the south end of the drift already made. By this means the ground would be proved in that direction, a ready means would be provided by a tramway for disposing of the surplus dirt and rock, the expense and delay of sinking shafts would be obviated, the drifts connected with shafts No. 4 would be thoroughly drained, and the expense of cartage and hoisting minerals from the shafts saved. It is estimated that this drift, exclu-
73 sive of the tramway, can be driven at a cost not exceeding five dollars per lineal foot. It is the design of the company to extend the drifts eastwardly from the drifts from shaft No. 4, along on the north range as fast as two or three shifts of miners per day can drive, and thus drain the whole vein as far as shafts Nos. 1, 2 and 3. From the end of the drift in shaft No. 4 to the western end of the drifts in No. 3 is 300 yards, and from shaft No. 4 to shaft No. 7 is a distance of 200 yards, all of which is believed to be as rich in minerals and to as great a width north and south as that portion which has been worked in shafts 1, 2 and 3. It has been ascertained by working in shafts Nos. 4, 5 and 6 that zinc ore and mineral, in paying quantities, extend from 50 to 100 feet further south than the range proper, probably caused by counters and north and south crevices crossing the range. Along the drift connecting shafts 4, 5 and 6, on the north side, there has been left a sheet of dry bone and mineral from six to sixteen inches in thickness. In the north drift of No. 4 the sheet is about the same size, but much richer in lead ore. In No. 7 the sheet is about the same average thickness.

As far as can be ascertained from the mineral books kept, the amount of mineral raised, exclusive of dry bone and black jack, (zinc ore,) is over 6,000,000 lbs., worth in gold, at the present prices, over two hundred and forty thousand dollars.

Zinc ores, formerly worthless to the miners, are now eagerly sought for, dry bone bringing twelve dollars per ten at the roasting furnace within half a mile of the mine. A furnace has also been erected by a New York company to reduce black jack to metallic zinc, and is in successful operation within a short distance of the mines. It is confidently believed by those who have examined the drifts that the zinc ores alone will pay the expenses of working the diggings after the water is removed.

74 THE LAND,

independent of the mineral beneath its surface is very valuable; one hundred and sixty acres are within the corporate limits of the city, and is admirably adapted for residences. Mr. Jones has been offered for quarter-acre lots from fifty to seventy-five dollars per lot, and portions of the tract not required by the company could be readily disposed of at those rates, reserving the minerals should it be deemed advisable to plat the tract.

The facts herein set forth with regard to this tract of land and its mineral wealth have been collected with great care by officers of the company, and are within the personal kowledge of all the substantial residents of Mineral Point and experienced miners in the mining region.

The corporators have kept in view the sound advice of Profs. Hall and Whitney in their remarks upon the lead regions of Wisconsin.

Vol. 1, page 419, Geological Report of Wisconsin:

"Any association to work the mines of Wisconsin must be economically organized and managed, and must be directed by some person having local experience and a thorough knowledge of the ground."

This the company has secured in the person of Philip Brenger, who has worked the ground in question for the past five years, and in the general superintendence of Mr. Squires, both of whom are practical miners.

Again, page 90, the same gentlemen say: "The more thoroughly a mining district is studied, and the more facts in regard to the occurrence of its metalliferous deposits are accumulated, the less ought to be the risk of commencing new enterprises, since experience of the past is, after all, the surest guide in all matters connected with mineral deposits."

In the enterprise now offered the land has been proved. No extensive levels are to be run; no expensive shafts to be sunk, and a comparatively small outlay will enable the company to avail
75 themselves of the labor and money expended in sinking shafts, from which mineral in large quantities was raised, until they became flooded with water and necessarily abandoned; hence the capital invested may be made immediately available.

The immense amount of mineral already taken from this tract, the unmistakable evidence of an almost inexhaustible supply still remaining, and the successful manner in which, under the most unfavorable circumstances, this mine is being worked, warrant the assurance that within eighteen months the company will be able to pay a net dividend of seven per cent. upon its nominal capital of $500,000.

No other scheme so practicable and so certain of complete success has before been presented to the public.

The office of the company is at present at the office of Buttrick & Hill, No. 29 Chamber of Commerce, Milwaukee, where any further information or statistics concerning the company and its operations can be obtained. In addition to the purchase money for the lands, it is proposed to raise $25,000 as a working capital. A limited number of shares can be obtained of Buttrick & Hill for $1 00 per share, upon which under the charter there can be no assessment.

Specimens of the mineral being raised from the northern range by the corporators of this company can be seen at the Chamber of Commerce. Milwaukee.

76 On motion of Mr. Thomas, the secretary was empowered and

directed to take such steps as he deems expedient, consistant with the charter, by-laws and regulations of the company, to raise upon sale of the stock of this company the sum of $100,000. On motion, meeting adjourned to call of the secretary or president.

Attest: EDW'D J. HILL,
Secretary.

MINERAL POINT, WISCONSIN,
April 27, 1865.

Pursuant to a call of the secretary, corporators met this day at the United States Hotel, in the city of Mineral Point, at 9 o'clock a. m.

The secretary reported that he had sold 7,000 shares of stock to G. G. Wilder, of Boston, for lands in Wisconsin; that until titles to the lands and mines were obtained nothing could be done towards raising the stock.

On motion of Mr. Thomas, the secretary was empowered and directed to open negotiations with Col. Jones and Squires, Brenger and Thomas, for the absolute purchase of the property described in the printed prospectus, and report the same this afternoon at 2 o'clock. Meeting adjourned till 2 this afternoon to hear report of secretary.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MINERAL POINT, *April* 27, 1865—2 *o'clock p. m.*

Pursuant to adjournment, coporators met. Secretary reported that he had purchased of Col. David W. Jones and wife the fee of the property described in said prospectus, and the miners' tools and machinery and leases and rights of Squires, Brenger and Thomas for 75,000 shares of the capital stock of this company, the same to be conveyed free and clear of all incumbrances whatever.

77 On motion of Mr. Thomas, the secretary was directed to perfect said purchases. Secretary reported that he had perfected the purchases and had in his possession the conveyances and transfers.

On motion of Mr. Brenger, it was resolved that there be, and hereby is, appointed Buttrick and Hill, agents, 25,000 shares of the capital stock of this company, for the fee of the lands described in the deed from D. W. Jones and wife to the company, and that the same issue to them or their order therefor; that there be, and hereby is appropriated to Squires, Brenger and Thomas, 30,000 shares of the capital stock of this company, to wit, 10,000 shares to Benjamin F. Thomas, 10,000 shares to Philip Brenger and 10,000 shares to Joel C. Squires; there be, and hereby is, appropriated to Edward J. Hill 10,000 shares of said capital stock, and 10,000 shares of said capital stock to Edwin L. Buttrick, for services in obtaining said purchases.

Mr. Thomas here tendered his resignation as treasurer, and transferred his stock to the company, and the company transferred the same to Buttrick and Hill, agents, providing they would pay the said Thomas $7,000 which the company had agreed to pay him therefor, as per written agreements on file with the secretary.

On motion of Mr. Hill, it was unanimously—

Resolved, That the secretary of this company be, and hereby is, authorized to sell and dispose of the balance of the working capital as set forth in the prospectus, to wit, 18,000 shares of stock, at not less than $1 per share, and that he be directed to convert the lands purchased of George G. Wilder into cash and pay the same into the treasury of the company forthwith.

J. C. Montgomery was elected treasurer in the place of Benjamin F. Thomas, resigned.

78 On motion of Mr. Hill, the meeting adjourned to the call of the secretary.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MILWAUKEE, *June* 26, 1865.

At a meeting of a majority of the stockholders of the Mineral Point Mining Company, convened by a call of the secretary, Edward J. Hill was appointed secretary pro. tem.

The records of the last meeting were read and approved. Edwin L. Buttrick was elected vice-president of the company and a director thereof. By-law No. 1 was amended so as to read in place of "attorney" "vice-president." Mr. Montgomery tendered his resignation as treasurer, which was accepted.

George G. Wilder, of Boston, was appointed treasurer, and Edwin L. Buttrick acting treasurer, until Mr. Willder should accept his appointment. The secretary was directed to notify Mr. Wilder of his appointment.

Attest: E. L. BUTTRICK,
Sec'y pro tem.

MINERAL POINT, *August* 9, 1865.

At a meeting of the majority of the stockholders of this company, convened at the company's office, in the city of Mineral Point, it was unanimously—

Resolved, That the president, vice-president, secretary and treasurer be, and hereby are, authorized and directed and empowered to make, negotiate and sign all notes, checks and drafts on behalf of the company, pertaining to the business of the company and not otherwise; and all notes, checks and drafts made by either of said officers shall be binding upon the company.

79 The records of the last meeting were read and approved.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MINERAL POINT, WISCONSIN, *October* 21, 1865,
Saturday Evening at 8 *o'clock p. m.*

At a meeting of a majority of the stockholders of this company, held at its office this evening, the following business was transacted:

directed to take such steps as he deems expedient, consistant with the charter, by-laws and regulations of the company, to raise upon sale of the stock of this company the sum of $100,000. On motion, meeting adjourned to call of the secretary or president.

Attest: EDW'D J. HILL,
Secretary.

MINERAL POINT, WISCONSIN,
April 27, 1865.

Pursuant to a call of the secretary, corporators met this day at the United States Hotel, in the city of Mineral Point, at 9 o'clock a. m.

The secretary reported that he had sold 7,000 shares of stock to G. G. Wilder, of Boston, for lands in Wisconsin; that until titles to the lands and mines were obtained nothing could be done towards raising the stock.

On motion of Mr. Thomas, the secretary was empowered and directed to open negotiations with Col. Jones and Squires, Brenger and Thomas, for the absolute purchase of the property described in the printed prospectus, and report the same this afternoon at 2 o'clock. Meeting adjourned till 2 this afternoon to hear report of secretary.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MINERAL POINT, *April* 27, 1865—2 *o'clock p. m.*

Pursuant to adjournment, coporators met. Secretary reported that he had purchased of Col. David W. Jones and wife the fee of the property described in said prospectus, and the miners' tools and machinery and leases and rights of Squires, Brenger and Thomas for 75,000 shares of the capital stock of this company, the same to be conveyed free and clear of all incumbrances whatever.

77 On motion of Mr. Thomas, the secretary was directed to perfect said purchases. Secretary reported that he had perfected the purchases and had in his possession the conveyances and transfers.

On motion of Mr. Brenger, it was resolved that there be, and hereby is, appointed Buttrick and Hill, agents, 25,000 shares of the capital stock of this company, for the fee of the lands described in the deed from D. W. Jones and wife to the company, and that the same issue to them or their order therefor; that there be, and hereby is appropriated to Squires, Brenger and Thomas, 30,000 shares of the capital stock of this company, to wit, 10,000 shares to Benjamin F. Thomas, 10,000 shares to Philip Brenger and 10,000 shares to Joel C. Squires; there be, and hereby is, appropriated to Edward J. Hill 10,000 shares of said capital stock, and 10,000 shares of said capital stock to Edwin L. Buttrick, for services in obtaining said purchases.

Mr. Thomas here tendered his resignation as treasurer, and transferred his stock to the company, and the company transferred the same to Buttrick and Hill, agents, providing they would pay the said Thomas $7,000 which the company had agreed to pay him therefor, as per written agreements on file with the secretary.

On motion of Mr. Hill, it was unanimously—

Resolved, That the secretary of this company be, and hereby is, authorized to sell and dispose of the balance of the working capital as set forth in the prospectus, to wit, 18,000 shares of stock, at not less than $1 per share, and that he be directed to convert the lands purchased of George G. Wilder into cash and pay the same into the treasury of the company forthwith.

J. C. Montgomery was elected treasurer in the place of Benjamin F. Thomas, resigned.

78 On motion of Mr. Hill, the meeting adjourned to the call of the secretary.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MILWAUKEE, *June* 26, 1865.

At a meeting of a majority of the stockholders of the Mineral Point Mining Company, convened by a call of the secretary, Edward J. Hill was appointed secretary pro. tem.

The records of the last meeting were read and approved. Edwin L. Buttrick was elected vice-president of the company and a director thereof. By-law No. 1 was amended so as to read in place of "attorney" "vice-president." Mr. Montgomery tendered his resignation as treasurer, which was accepted.

George G. Wilder, of Boston, was appointed treasurer, and Edwin L. Buttrick acting treasurer, until Mr. Willder should accept his appointment. The secretary was directed to notify Mr. Wilder of his appointment.

Attest: E. L. BUTTRICK,
Sec'y pro tem.

MINERAL POINT, *August* 9, 1865.

At a meeting of the majority of the stockholders of this company, convened at the company's office, in the city of Mineral Point, it was unanimously—

Resolved, That the president, vice-president, secretary and treasurer be, and hereby are, authorized and directed and empowered to make, negotiate and sign all notes, checks and drafts on behalf of the company, pertaining to the business of the company and not otherwise; and all notes, checks and drafts made by either of said officers shall be binding upon the company.

79 The records of the last meeting were read and approved.

A true record.

Attest: EDW'D J. HILL, *Sec'y.*

MINERAL POINT, WISCONSIN, *October* 21, 1865,
Saturday Evening at 8 *o'clock p. m.*

At a meeting of a majority of the stockholders of this company, held at its office this evening, the following business was transacted:

The secretary read the records of the last meeting and the same were approved.

On motion of Mr. Buttrick, it was resolved that the following additional by-laws be and hereby are established for the government of this company:

9. Whenever in the opinion of a majority of the stockholders the business of this company demands additional capital to enable it to carry out the design of its charter, the capital stock may be increased or assessments upon the stock already subscribed may be made, as the majority shall direct.

10. If any stockholder in this company shall, for the space of ten days after personal notice, either neglect or refuse to pay or provide for any assessment levied upon his stock, his stock, or enough thereof shall be sold in the market to pay such assessment and the expense of sale.

11. No stock liable or subject to an assessment shall be transferred upon the books of the company.

On motion of Mr. Brenger, the secretary was called upon to report his sales of stock for the company, whereupon the secretary presented the following report:

GENTLEMEN: Under and pursuant to a resolution passed at a regular meeting of this company, held on the 27th day of April,
80 1865, in words as follows, to wit:

Resolved, That the secretary of this company be and hereby is authorized to sell and dispose of the balance of the working capital as set forth in the prospectus, to wit, 18,000 shares (7,000 shares having been heretofore sold for lands) of stock at not less than $1 per share, &c.

I sold in May last 8,000 shares to George G. Wilder for his acceptances, which have been paid $6,500, and some railroad bonds which have proved of little if any value; that I thereupon transferred and issued to him full paid stock certificates for 8,000 shares of stock of this company.

On the same day I made an agreement with Mr. Wilder, as I then supposed, to raise through him enough money to enable the company to carry on its business not to exceed $10,000, and as collateral to said loan I issued to Mr. Wilder as collateral security for the same, the remaining 10,000 shares of the capital stock of this company, receiving no value for the same, and gave him the following full paid stock certificates, to wit:

No. 6	for	1,000	shares	} 239 substituted for 6, 7 and 8.
7	"	2,000	"	
8	"	2,000	"	
9	"	2,000	"	
12	"	500	"	
13	"	500	"	
14	"	500	"	
15	"	500	"	
16	"	500	"	
11	"	500	"	

I hereby certify that on the 26th day of March, 1866, Mr. Wilder surrendered to the company certificates numbered 239 for 5,000 shares and Nos. 9, 12, 13, 14, 15, 16, and 11, without value.

Attest: EDW'D J. HILL, *Sec'y.*

I subsequently drew on Mr. Wilder for $7,500 in all, when in August last he repudiated the arrangement and refused to honor further drafts or to advance money. Mr. Wilder now claims to own the stock as a bona-fide purchaser, and refuses to give up the same for less than $5 per share, and has sold and is selling our stock for
81 other stocks, or cash. It was understood between myself and Mr. Wilder that if the $10,000 to be raised should prove a sufficient working capital so that the company would not have to raise a working capital, then the said stock should be his.

To carry the company along, my partner, Col. Buttrick, and myself have resorted to loans and discounts and incurred personal responsibility in the matter to a greater extent than we expected, and have been compelled to sacrifice stock of our own and of other parties in our hands. Arrangements are in view by which I expect to raise for the company funds enough to carry the company thro' the winter; but to put the company on a firm basis, a working capital must be raised. All which is respectfully submitted.

EDW'D J. HILL, *Sec'y.*

On motion of Mr. Hill this report was laid before the meeting for consideration.

On motion of Mr. Buttrick, it was resolved that certificates—

No. 6	for 1,000	shares	13	500	shares
7	" 2,000	"	14	500	"
8	" 2,000	"	15	500	"
9	" 2,000	"	16	500	"
12	" 500	"	11	500	"

issued to George G. Wilder in May last as set forth in the report of the secretary and fully described therein, be, and hereby are, cancelled and set aside, and the hypothecation of the stock therein set forth repudiated, and that the said 10,000 shares be, and hereby are, transferred and set over to Buttrick and Hill, agents, to reimburse them for moneys advanced and for the shares sold by them to provide funds for the use of the company.

Resolved, That the lands transferred by George G. Wilder
82 to Edward J. Hill for 7,000 shares of the stock of this company on the 12th day of April last, be released and quit-claimed to the said Hill, under the signature of the president of this company and the corporate seal, (providing the sum of money sufficient to provide a working capital can be raised from a sale of stock, said stock to be provided for either by assessment or by contribution,) at his option for the sum of $7,000.

Whereupon Joel C. Squires, Philip Brenger, Edwin L. Buttrick, George G. Wilder, by Edwin L. Buttrick, his attorney, Buttrick and

Hill, agents, J. C. Vinton, J. M. Whittemore and J. H. Chadwick, and others, by the secretary, offered to contribute to the treasury of the company not to exceed two-fifths of the stock respectively standing in their names, and authorized the secretary to make the necessary transfer on the books; providing, however, that none of such stock shall be sold for less than $2\frac{1}{2}$ per share.

On motion of Mr. Buttrick this offer was accepted and the secretary was authorized and empowered to obtain subscriptions for said stock thus placed in the treasury at not less than $2\frac{1}{2}$ per share, and the secretary was directed to see or communicate with all the stockholders and if possible to get their contributions.

On motion, the meeting adjourned to November 20, 1865.

A true record.

Attest: EDWARD J. HILL, *Sec'y.*

MINERAL POINT, *Nov.* 20, 1865.

At a meeting of the directors and a majority of the stockholders of the Mineral Point Mining Company, holden at its office in the city of Mineral Point, E. L. Buttrick was elected secretary pro. tem. in the absence of the secretary. The records of the last meeting were read and approved. George G. Wilder having neglected to
83 accept the office of treasurer, Edwin L. Buttrick was elected to the office, and directed to proceed to Boston with Col. D. W. Jones, to assist the secretary in raising funds by a sale of the capital stock of the company in the hands of the treasurer.

Attest: E. L BUTTRICK, *Sect. pro tem.*

MINERAL POINT, *Dec. 19th*, 1865.

At a meeting of a majority of the stockholders of the Mineral Point Mining Company, in the absence of the secretary, Edwin L. Buttrick was chosen secretary pro tem. The proceedings of the last meeting were read and approved.

On motion of Edwin L. Buttrick, it was unanimously—

Resolved, That there be, and hereby is, levied upon each share of the capital stock of said company held by parties who have subscribed therefor at the rate of one dollar per share, an assessment of one dollar per share payable either in cash or in stock of this company at two and one-half dollars per share, and if any such stockholder shall neglect or refuse to pay such assessment, the secretary or treasurer is hereby directed to proceed against his said stock in this company as specified in by-law No. 10.

On motion of Mr. Buttrick, it was ordained as by-law No. 12. "The annual meeting of the stockholders of this company shall be held on the second Wednesday of March in each year, at the companie's office in the city of Mineral Point, for the purpose of electing directors, and the transaction of such other business as shall be properly presented."

Edwin L. Buttrick resigned his office as vice-president, and Matthew Bolles was elected in his place.

84 On motion of Mr. Buttrick, Nehemiah L. Mann, Eustace J. Cooper and John W. Olmstead were appointed a committee with power to fill vacancies, to visit the company's mines and works, and examine and report to the stockholders, at its next annual meeting, the affairs of the company.

On motion, the meeting adjourned.

A true record.

E. L. BUTTRICK, *Sect. pro tem.*

MINERAL POINT, WIS., *Dec. 22d*, 1865.

At a meeting of a majority of the stockholders of the Mineral Point Mining Company held at the office in the city of Mineral Point the following proceedings were had, to wit: E. L. Buttrick was appointed secretary pro tem., and presented the following report from E. J. Hill, sec'y:

"ROOM NO. 36, PARKER HOUSE,
Boston, Mass., Dec. 18, 1865.

Mr. President and gentlemen of the Mineral Point Mining Company:

Your secretary has to report the complete and successful organization of the company, and a fixed value of the stock of not less than $2 50 per share cash, and that he is about to take steps to put our stock upon the market here at not less than par.

Pursuant to the vote of this company at a meeting held on the 21st day of October last, your secretary with the assistance of your present treasurer and David W. Jones of Mineral Point, through Matthew Bolles of 90 State street, in this city, has placed 40,000 shares of our stock, contributed to the treasury at $2 50 per share, or for the aggregate sum of one hundred thousand dollars, including commissions, &c.

Very respectfully,

EDWARD J. HILL, *Secretary.*

On motion of Mr. Buttrick the report was accepted and adopted.

85 On motion of Mr. Buttrick, it was unanimously resolved that all stock certificates issued and dated prior to Dec. 1, 1865, be and hereby are, called in and cancelled, and that new certificates be issued by the secretary pursuant to the by-laws in lieu thereof.

On motion of Mr. Buttrick it was unanimously resolved, that by-law No. 1 be, and hereby is, amended so as to read as follows, to wit:

1. The officers of this company shall be a president, vice-president, secretary, treasurer, and an executive committee of three to be chosen from among the stockholders at the annual meeting of the company, who together shall constitute a board of seven directors, and also a civil engineer, and in case any of said officers shall die, resign, or otherwise become incapable of holding and discharging his

trust, the vacancy may be filled by the remaining directors, and that a majority shall constitute a quorum.

On motion of Mr. Buttrick it was further resolved, that the president, vice-president, secretary, treasurer, and examining committee already chosen shall constitute the board of directors, until the next annual meeting, with full power to act pursuant to the charter, and by-laws of this company.

On motion of Mr. Buttrick it was resolved, that in all cases hereafter the secretary shall give ten days public notice of any annual, regular or special meeting of the stockholders.

On motion of Mr. Buttrick it was further resolved, that the secretary's office be, and hereby is, located at No. 20 Chamber of Commerce, in the city of Milwaukee, and that the secretary shall there keep the transfer books of the corporation, and be, and constitute the transfer books of the company, and that he be authorized, empowered and instructed to transfer to the bona fide purchasers of the
86 stock of the corporation the stock which the company has sold, upon the books of the company.

Resolved, That the secretary be, and hereby is, authorized and directed to obtain five hundred new stock certificates to be issued, pursuant to the by laws, and upon the surrender by the shareholders of the certificates already issued.

A true record.

Attest: E. L. BUTTRICK, *Sec'y Pro tem.*

MINERAL POINT, *February* 6, 1866.

At a meeting of the directors of the Mineral Point Mining Company held at the company's office this day, present Joel C. Squires, president; Matthew Bolles, vice president; Edwin L. Buttrick, treasurer; Edward J. Hill, secretary, and John W. Olmstead of the committee the following proceedings were had, to wit: Joel C. Squires tendered his resignation as president, and Edwin L. Buttrick his resignation as treasurer, and Edwin L. Buttrick was, on motion of Mr. Bolles, elected president to fill the vacancy, and Matthew Bolles was elected treasurer. Matthew Bolles resigned his office as vice-president, and Hezekiah S. Chase of Boston was elected vice-president to fill the vacancy.

On motion of Mr. Buttrick it was—

Resolved, That the treasurer be required to give bonds for the faithful discharge of his trust in the penal sum of not less than $10,000 to be approved by the directors.

On motion of Mr. Hill it was—

Resolved, That the president, John W. Olmstead, and secretary be, and hereby are, appointed a committee to revise and amend or alter the by-laws of the company, and report at the annual meeting.

On motion of Mr. Hill, Mr. Squires was authorized and di-
87 rected to act as superintendent, until further orders, and to continue mining operations and the business of the corporation under the direction of the president and secretary.

A true record.

Attest: EDWD. J. HILL, *Secretary.*

No. 50 Bromfield Street, Boston, Mass.,
Monday, March 12, 1866.

Pursuant to a call of the secretary of the board of directors a majority of the stockholders of the Mineral Point Mining Company of Wisconsin, to wit: E. L. Buttrick, president; Edward J. Hill, secretary; Hezekiah S. Chase, vice-president; Matthew Bolles, treasurer; Nehemiah P. Mann, J. W. Olmstead, and Eustace J. Cooper, directors; J. W. Converse, George G. Wilder, John S. Abbott, J. M. Whittemore, J. C. Vinton, N. V. Mann, jr., J. P. Preston, G. F. Bemis, Henry Cutter, John Dove, and M. S. Bolles met; the meeting was called to order by the president.

On motion the records of the meeting of the board of directors of February 6, 1866, held at the city of Mineral Point, Wisconsin, were read by the secretary, and approved. Mr. Olmstead, of the committee to revise and report an additional code of by laws, reported the following by laws:

1. The officers of this company shall consist of a board of seven directors, from whom shall annually be elected a president, secretary, treasurer and auditor. Not less than four directors shall be residents of Boston, Mass., or of its immediate neighborhood. In case any of said officers shall die, resign, or otherwise become incapable of holding his trust, the vacancy may be filled by a majority of the remaining directors.

2. The capital stock of the company shall consist, until otherwise ordered, of the sum of five hundred thousand dollars, divided
88 into shares of five dollars each par value, which shall be transferable only on the books of the company, either in person or by attorney, and as provided by-laws. Each stockholder shall be entitled to a stock certificate or certificates representing the number of shares owned by such party. All certificates of stock hereafter issued shall be signed by the president and secretary, countersigned by the treasurer under the corporate seal of the company, which corporate seal shall be held by the treasurer.

3. At the annual meeting and all other meetings of the Company, a majority of the stock shall constitute a quorum for the transaction of business, and the holders of the stock may appear in person or by proxy.

4. The directors may call meetings of the stockholders at any time and place they shall deem expedient, and they shall call a special meeting of the stockholders at the request of those representing not less than twenty-five per cent. of the stock of the company. At least fifteen days' notice of such meeting shall be given either by the secretary of the company, or in his absence, by the secretary of the board of directors.

5. The directors, or a majority of them, shall manage, direct and control all the business of the company in full pursuance of its charter, section one, and shall submit a complete report of their doings to the stockholders annually.

6. All transactions relating to real estate shall be made in pursu-

ance of a resolution in each case by the board of directors, and the sale and transfer shall be duly and properly executed.

7. The seal of the company shall be the one now in use.

8. The directors shall annually elect a general superintendent, who shall supervise all the mining and other operations of the company at the mines, and who, residing there, in his books of account,
89 in matters of finance and in all other matters, shall be immediately subject to the instructions of the board of directors, and shall report to them in Boston, fully through the treasurer, as requested from time to time. They shall have power to remove, suspend or fill any vacancy, at their discretion.

9. The president, or in his absence, the vice-president, shall preside at all meetings whether of the board of directors or of the corporation. In the absence of both, a chairman pro tempore shall be chosen to preside at the meetings. Of the board of directors, a permanent secretary shall be annually elected, who shall faithfully keep the records of the same. The treasurer shall receive, collect, hold, and with the sanction of at least one director, shall pay out, as required, all funds belonging to the company. He shall give bond, which shall be approved by the directors, and be held by the auditor, in the penal sum of not less than ten thousand dollars, for the faithful discharge of the duties of his trust. All his books and accounts, including the transfer books, shall be duly audited twice a year, in order to being submitted to and approved by the directors. The secretary, or in his absence, a secretary pro tempore, shall keep a record of all meetings of the company.

10. The treasurer, when requested, shall issue certificates of stock to all stockholders; he shall keep at his office the stock leger and transfer books, and shall cause transfers of stock to be made upon application of any stockholder, either in person or by attorney, but no stock shall be transferred while subject to any assessments.

11. No salaries shall be paid to any officers of the company, or other persons, except by vote of the board of directors.

12. The annual meeting of the company shall be held the second Tuesday in July of each year, notice of which shall be given,
90 as required in by-law 4. At this meeting the annual report of the directors of the treasurer and auditor shall be submitted for the year ending June 30th, and the board of directors shall be chosen.

13. No assessment shall hereafter be made on the stock of the company, without the assent of every stockholder.

14. The directors shall declare dividends semi-annually, or at such times as they may deem suitable.

Which said report was accepted, and the by-laws therein contained considered, and one by one adopted.

On motion the records of the directors' meetings were read, and their proceedings in all things fully ratified and confirmed, and the directors were authorized and directed to complete the purchase of the lands of hon. Moses M. Strong, adjacent and contiguous to those of the company.

On motion the proceedings of the company in Wisconsin, as placed in the foregoing records of the company, were approved, ratified and confirmed.

On motion Rev. Dr. Olmstead, of the examining committee, read a report of the visit of himself and present treasurer to the company's mines and works.

On motion, the meeting adjourned to meet at the same time and place on Friday, March 16, 1866.

A true record.

Attest :

EDW'D J. HILL, *Secretary.*

No. 50 BROMFIELD STREET, BOSTON, MASS.,
Friday, March 16, 1866.

Pursuant to adjournment a majority of the stockholders of the Mineral Point Mining Company met. The meeting was called to the order by the president. The records of the proceedings of the last meeting were read and approved.

On motion the meeting adjourned.

91 A true record.

Attest:

EDW'D J. HILL, *Secretary.*

No. 50 BROMFIELD STREET, BOSTON,
Saturday, May 12, *A. D.* 1866.

Pursuant to adjournment, a majority of the stockholders met at No. 50 Bromfield street, in the city of Boston, in the absence of the President and the H. S. Chase, esq., vice-president; J. M. Whittemore was appointed chairman.

The record of the last meeting was read and approved, and the records of the board of directors were read and their proceedings approved.

On motion of Mr. Hill the following resolutions were adopted:

Resolved, That it be, and hereby is, ordered as by-law 15.

In the absence of the president and secretary, or either of them, from Boston, stock certificates may be signed by the vice-president and the secretary of the board of directors.

Resolved, That the treasurer be, and hereby is, instructed to proceed to Washington immediately for the purpose of procuring, if possible, the legislation necessary for the protection of the company against foreign trade and capital, and that the auditor be directed to allow his expenses out of the company's funds.

Resolved, That the capital stock of the company may be increased pursuant to a resolution of the board of directors, not to exceed 20,000 shares for the purpose of making permanent improvements upon the company's lands, providing that none of said stock shall be sold less than par.

On motion, the meeting adjourned.

A true record.

Attest:

EDW'D J. HILL, *Sec'y.*

92 STATE OF WISCONSIN,
Milwaukee County, ss:

I, Edward J. Hill, secretary of the Mineral Point Mining Company, do hereby certify that the above and foregoing is a correct transcript from the records of the meetings of the corporators, stockholders and directors of the Mineral Point Mining Company, and that the same has been compared by me with the original record, as the same now remains in my office, and that the same is a correct transcript therefrom, and from the whole and every part thereof.

Dated Milwaukee, Sept. 16, 1867.

EDWARD J. HILL,
Secretary of the Mineral Point Mining Company.

Exhibit C. referred to in the annexed deposition of Edward J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

"*Exhibit C.*"

MINERAL POINT, *Sept. 12th*, 1865.

E. J. Hill, esq.:

DEAR SIR: In conversation with Mr. Squires to-night I was both surprised and mortified to learn that both he and you had suspected me of sending a copy of the contract to Mr. Wilder. I have satisfied Mr. Squires, (as I will show you when I see you,) that I am not only innocent of such foolishness, but that I have labored earnestly and zealously for what I considered our mutual interest.

Your friend,

D. W. JONES.

Exhibit "D," referred to in the annexed deposition of E. J. Hill.

F. BLOODGOOD,
Com'r, &c.

$5,000. BOSTON, *Jan'y* 29, 1866.

Thirty days after sight, pay to the order of David W. Jones, five thousand dollars $\frac{00}{100}$

BUTTRICK & HILL.

To Matthew Boles & Co., bankers, 90 State street.

[2-ct stamp, cancelled.]

93 Endorsed as follows: Feb'y 5th, 1866, M. Bolles & Co., p'r E.J. Cooper, att'y. 2 cent rev. stamp, can'd. 50 cent reve. stamp, canc'd. Pay to the order of Cyrus Woodman. D. W. Jones. Pay to the order of Solomon Lincoln, cash'r. Cyrus Woodman. Paid. Webster Bank, Boston.

Exhibit "E."

$10,000. BOSTON, *Jan'y* 29, 1866.

At sight pay to the order of David W. Jones, ten thousand dollars. -100.

BUTTRICK & HILL.

To Matthews, Bolles & Co., bankers, 90 State street, Boston.

[2-cent stamp, canc'd.]

Endorsed as follows: Feb'y 5, 1866, M. Bolles & C., p'r E. J. Cooper, att'y. Protest, Feb. 8, 1866, fees $2 21. Pay to the order of Cyrus Woodman; D. W. Jones. Pay to the order of Solomon Lincoln, cash'r; Cyrus Woodman. Rec. five thousand doll's on the within, M'ch 22, 1866; C. L. Riddle, p's't. Paid, Webster Bank, Boston. Ex. E referred to an annexed dep'n of E. J. Hill; F. Bloodgood, com'r, &c.

94 BOSTON, *June* 8, 1866.

Col. D. W. Jones:

DEAR SIR: Herewith we had you statement of our account with you, showing bal. in your favor of $5,821, for which we enclose draft on M. Bolles & Co., at sight, the receipt of which please acknowledge to us at Milwaukee.

Yours, &c.,

BUTTRICK & HILL.

P. S. Our note for $250 will be paid on presentation.

Exhibit "F" referred to in the annexed deposition of Edward J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

David W. Jones,

In account with Buttrick & Hill.

DR.

By cash received of Mineral Point Mining Company for purchase-money of 223 37½-100 acres of land sold for you to said company, April 27, 1865 ..... $30,000 00

CONTRA.

1865.	October.	To cash of M. P. M. Co. upon acc't of Buttrick & Hill ..	$100 00	
"	Dec.	" Cash paid C. F. Hovey & Co., for 8 y'ds Thibit, 225, $18 00; for 8 y'ds merino, $1 37½, 11 00		29 00

1865.	Dec.	9	To Cash of E. J. Hill, in Boston	$50 00	
"	"	15	Draft on 10th Nat. Bank, N. Y., to order of E. J. Hill, endorsed to you from Mt. V. Nat'l Bank	5,000 00	
1866.	Jan'y	29.	To draft on M. Bolles & Co., at sight, $10,000; draft on M. Bolles & Co., at 30 days, $5,000	15,000 00	
			" commissions as per agreement	4,000 00	
"	June	8.	" draft on M. Bolles & Co. for bal	5,821 00	
					30,000 00

Exhibit "G" referred to in the annexed deposition of Edward J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

95 $250 00. MINERAL POINT, *April* 15, 1866.

For value received, we hereby promise to pay Col. D. W. Jones two hundred and fifty dollars, with interest, on demand.

BUTTRICK & HILL.

[8 2-cent stamps, cancl'd.]

"*Exhibit I.*"

Exhibit "I" referred to in the annexed deposition of E. J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

Endorsed as follows: 1866. D. W. Jones. $252 90. Pay J. A. Noonan or order, D. W. Jones. J. A. Noonan per D. N. Kasson.

$252 90. BOSTON, *June* 15, 1866.

At sight please to pay to the order of Josiah A. Noonan, (for D. W. Jones,) two hundred fifty-two dollars 90-100.

BUTTRICK & HILL.

To Matthew Bolles & Co., bankers, 90 State street.

[2-cent stamp, canc'd.]

"Exhibit K," referred to in the annexed dep'n of E. J. Hill.

F. BLOODGOOD, *Com'r.*

Endorsed as follows: J. A. Noonan, pay E. J. Blake, esq., cash-

ier, or order, for collection, account of Nat'l Exchange Bank, Milwaukee. W. E. Fitch, esq, pay Nationnal Exchange Bank, Boston, or order, E. J. Blake, National Exchange Co., paid bank. E. S. Jewett, Nat'l Exch. B'k.

96 "*Exhibit H.*"

$5,821 00. BOSTON, *June* 8, 1866.

At sight please pay to the order of David W. Jones five thousand eight hundred and twenty-one dollars -100.

BUTTRICK & HILL.

To Matthew Bolles & Co., bankers, 90 State street.

[2-ct. stamp, canc'd.]

Endorsed as follows : June 16, '66, M. Bolles & Co., five thousand eight hundred and twenty-one dollars, $5,821 00. Exhibit H, referred to in the annexed deposition of Edward J. Hill. Francis Bloodgood, commissioner, &c. Pay S. Lincoln, cash or order, D. W. Jones. Paid, Webster Bank, Boston.

Exhibit "L" referred to in the annexed deposition of Edward J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

Matthew Bolles & Co., bankers and brokers, No. 90 State street:

Exhibit L.

BOSTON, *June* 21, 1866.

E. J. Hill, esq'r :

DEAR SIR : Your d'fts in favor of Mr. Jones have appeared and been paid on the 19th, say..... $5,821 00
and..... 252 90

6,073 90

Have you amicably setted with him in full?
Advices from Mr. Cooper, first rate.

Yours, truly,

M. BOLLES & CO.

Exhibit "M," referred to in the annexed deposition of Edw'd J. Hill.

FRANCIS BLOODGOOD,
Commissioner, &c.

97 "*Exhibit M.*"

MINERAL POINT, WIS., *Oct.* 20, 1866.

E. J. Cooper, esq'r :

DEAR SIR: In compliance with your request I herewith give you a statement of my claim against the Mineral Point Mining Company for purchase money due me on lands in section No. 1, town No. 4, range No. 2, east, in the city of Mineral Point and county of Iowa, Wis.

Whole amount of purchase money			$30,000 00
On which I have rec'd, 1865, in Dec'r	5,000		
Since then	5,000		
" "	10,000		
" "	5,821		
		20,821	
			25,821 00
Leaving a balance of principal due me of			4,128 00

Besides, or in addition to the balance due me of purchase-money, I am entitled to all the rents from the whole tract, namely, one clear tenth of all minerals raised from the time of the purchase until I received the last payment of the purchase-money. I can only ascertain this from the books of the company, and I know that by this time it amounts to a large sum. But if I am paid the balance within the next sixty days, I will take from the company interest at the rate of seven per cent. per annum, in lieu of the rent. This will be making a large discount. The int. to be computed from the 1st of Dec'r, 1865, up to the time of the several payments. Mr. Bolles has the dates of the several payments, I never having received payments from the company, except through him. It is but proper, however, to state, while in Boston last winter, I received from E. J. Hill, one hundred, or between one and two hundred dollars, for which I gave him receipts in the name of the company, but I supposed it to be an account of expenses that Col. Buttrick agreed the com-
98 pany should pay. If, however, they will say they did not intend to pay my expenses, then whatever the amount is, one hundred or between that and two hundred dollars, shall be a credit on the purchase-money. Mr. Hill also paid for me in Boston, for goods, twenty-nine ($29) dollars; this I owe either to the company or to Mr. Hill, individually; I am ready and willing to pay it. This is all I can say on the subject, and is a full statement of the account. I cannot close without congratulating you upon the present and prospective bright prospects of the company, and I sincerely hope and believe that you will soon be able to agreeably surprise your eastern friends with the results of your mining operations.

Very resp't, your ob'd serv't,

D. W. JONES.

Exhibit N, referred to in the annexed deposition of E. J. Hill.
F. BLOODGOOD,
Commissioner, &c.

"*Exhibit N.*"

[10-cent stamp cancelled.]

This agreement, made and entered into this 22nd day of May, A. D. 1855, by and between Edwin L. Buttrick and Edward J. Hill, both of the city of Milwaukee, the county of Milwaukee and State of Wisconsin, and Ahira Hall of the same place, witnesseth: That the said parties have this day associated themselves together for the practice of the law, under the firm, name and style of Buttrick, Hill and Hall as copartners; said copartneaship to continue during the pleasure of all said parties, and to be dissolved by any member thereof on ten days' notice, at any time. And it is understood that the said Buttrick and the said Hill will pay unto the said Hall the sum of two thousand dollars ($2,000 00) per annum, commencing June 1st, A. D. 1865, or at that rate during the continuance of said copartner-
99 ship, be the same of longer or shorter duration, payable monthly, in lieu of any other or further interest in the business or property of said firm; the said Buttrick and Hill to pay all expenses, and to share all gains or losses of said copartnership, share and share alike. And the said Hall, in consideration of the premises, hereby agrees to devote all his time and attention to the faithful and diligent prosecution of the business of said firm, and of the late firm of Buttrick and Hill, to the best of his ability. And it is hereby mutually agreed and understood by and between said copartners that they will each, every and all of them, devote their time and attention to the practice of the law and the promotion of the interests of said partnership; and that none of said parties will endorse the paper of other persons or corporations, or become surety in any case without the consent of one of the other copartners.

Witness our hands and seals hereto, the day and year first above written.

[SEAL.] EDWIN L. BUTTRICK.
[SEAL.] EDWD. J. HILL.
[SEAL.] AHIRA HALL.

Signed and sealed in presence of—
CHARLES E. HALL.

For and in consideration of the sum of one dollar and other good and valuable considerations hereto us moving, we jointly and severally do hereby agree, that the above and foregoing agreement and articles of copartnership be and hereby are dissolved, cancelled and set aside. And the said Ahira Hall doth for himself, hereby acknowledge the receipt and payment of the sum of thirteen hundred dollars and thirty-three dollars and thirty-four cents ($1,333 34) and hereby releases and discharges the said Edwin L. Buttrick and Edward

100 J. Hill and each of them from all claims and demands of every kind and nature.

Witness our hands and seals this 31st day of January, A. D. 1866.

[SEAL.] EDWIN L. BUTTRICK.
[SEAL.] EDW'D J. HILL.
[SEAL.] AHIRA HALL.

[10-cent stamp, cancelled.]

Endorsed: Articles of copartnership. Buttrick, Hill & Hall.

MATHEW BOLLES
vs.
DANIEL W. JONES AND MINERAL POINT MINING COMPANY. } In chancery.

CIRCUIT COURT U. S. A., *District of Wisconsin*:

Sir: Take notice that you are hereby required to produce, at the trial of this cause, a letter dated Boston, June 8, 1866, from Buttrick & Hill to Col. D. W. Jones, a copy of which is annexed as exhibit F, to the deposition of Edward J. Hill, before Francis Bloodgood, examiner, &c., and that in case you neglect or omit so to do said copy will be introduced in evidence on said trial in place of said original.

Datad Sept. 16, 1867.

FINCHES, LYNDE & MILLER,
Sol. for Compl.

To N. M. COTHREN, Solicitor for D. W. Jones.

I hereby admit due personal service of the above notice, this 16 Sept., 1867, while before the said examiner taking the testimony of said E. J. Hill.

Milwaukee, Sept. 16, 1867.

M. M. COTHREN,
Att'y for def't Jones.

UNITED STATES OF AMERICA,
District of Wisconsin, ss:

I, Francis Bloodgood, a commissioner, duly appointed by the Circuit Court of the United States for the district of Wisconsin, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,' " passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the

fact is, that the witness above named is material and necessary in the cause in the caption of said deposition named, and that such deposition was taken pursuant to the annexed stipulation.

I further certify that on the 16th day of September, in the year of our Lord one thousand eight hundred and sixty-seven, I was attended by A. Finch, esq., of counsel for complainant, and M. M. Cothren, esq., of counsel for def't Jones, and by the said witness, who was of sound mind and lawful age, and the said witness was by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth and nothing but the truth, in the cause aforesaid, and the deposition was reduced to writing, in the presence of the said witness, and in my presence, by my clerk, a disinterested person, and from witness's statements, and after carefully reading the same to said witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the court for which the same was taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal this 16th Sept., in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.] FRANCIS BLOODGOOD,
U. S. Commissioner duly appointed by Circuit Court of the U. S. for the District of Wisconsin.

Com. fees, $13 60; wit., $1 60.

101 Circuit Court of the United States, seventh circuit and district of Wisconsin.

Testimony taken in Boston, Massachusetts, by James C. Davis, examiner.

MATTHEW BOLLES
vs.
DAVID W. JONES *et al.* } In eq.

Circuit Court of the United States in and for the district of Wisconsin.

MATTHEW BOLLES
vs.
THE MINERAL POINT MINING COMPANY AND David W. Jones.

It is stipulated between the parties that the time to take testimony in this cause be and the same is hereby extended until the last Monday in July next; and that the said parties will take the testimony, to be orally taken in Boston, Massachusetts, on the first Monday of

July next, and continue the same until the witnesses are examined in that city.

May 3d, 1867.

FINCHES, LYNDE & MILLER,
Solicitors for Complainant.
M. M. COTHREN,
Solicitor for D. W. Jones.

Witnesses examined on behalf of the complainant.—Deposition of J. M. Whittemore.

John M. Whittemore: I am a stationer; my residence is in Roxbury, in Massachusetts; my place of business is 114 Washington street, in Boston, Massachusetts. I am a stockholder in the Mineral Point Mining Company; my interest with them commenced
102 sometime in the summer of 1865; I cannot give the precise date. I was present at a meeting, at the house of Matthew Bolles, of persons from the west, who represented this company, and of other persons of the city who were invited by Mr. Bolles to hear the representations of these gentlemen as to the property of the company; this was the very last of November or the first part of December, 1865, as near as I can recollect. The persons present, as near as I can recollect them, were Matthew Bolles, M. S. Bolles, (his son,) D. W. Jones, (one of the defendants,) Moses M. Strong, E. L. Buttrick, (treasurer of the Mineral Point Mining Company,) E. J. Hill, (secretary of the company,) H. S. Chase, J. W. Olmstead, Mr. Gould, (of the firm of Gould & Lincoln,) Geo. B. Brown, and others whose names I do not remember. I should think in the course of the evening there were twenty different persons in the room; I remember that Mr. E. J. Cooper was there; all these persons were in one room mainly—the back-parlor of the house; it might have been fifteen feet by twenty feet in size, I think; it opened by folding doors into a room somewhat larger, and the larger room opened into a third room with which it was connected by an arch, I think; the folding doors were open, and between them a sofa was placed, facing into the back parlor; some persons were sitting on this sofa; perhaps there were others who did not find seats in the back parlor who were standing beyond the sofa in the larger room. The meeting was informal altogether, but there were one or two rather set speeches made; these were made by Buttrick and Strong; Mr. Jones made some remarks, and so did Mr. Hill; the remarks of all four had reference to the mineral lands of the company; they all spoke of them as very valuable; the remarks of Mr. Hill in regard to the land were, that the property was free and unincumbered—that the company had
a perfect title, and they also had a very valuable charter; in the
103 course of his remarks, I think he stated that the land was purchased of the defendant, Col. D. W. Jones; I was as far from the speakers as any one, I think, who was present, and I heard very distinctly what was said by all parties; I do not think any one pres-

ent could have lost anything if they had given attention; it is possible that the attention of some might have been directed otherwise, though I saw nothing to distract any one's attention; the persons present were apparently giving very close attention to what was said; all seemed a good deal interested. I think the defendant, Jones, sat at the right hand of Mr. Hill, and not more than five or six feet from him while Mr. Hill was speaking. Some inquiry was made by somebody in regard to the title of the property notwithstanding what had been said by Mr. Hill. Mr. Chase then put the question directly to Mr. Jones, "Well, Colonel, have you received your pay?" Mr. Jones replied that he had, and went on then and stated that he had some reason to regret that he had received it; that he placed some of it where he was afraid it would not be as safe as in the property; Mr. Chase speaks in a high, sharp tone, ordinarily, and he spoke in that manner at that time. The answer was given in Col. Jones' natural tone; it was audible to me, and I think I was as far from him as any one in the room. The general character of Col. Buttrick's (E. L. Buttrick's) remarks was the same as those of Mr. Hill. I do not recollect that he said anything with reference to the property's being unincumbered at that meeting. He had been engaged at the mines for several months, and his remarks were listened to with a great deal of interest. He described quite fully what the company had been doing. Mr. Strong did not say, I think, whether the property was encumbered. Col. Buttrick said, with a good deal pf emphasis, that they had a very valuable property. There was nothing said by either Buttrick, Hill, Strong or Jones, which raised any doubt
104 as to the title to the property. I had been a short time previous (a week or ten days, possibly) acquainted with the defendant Jones. He was in the habit of coming into my store every day, and several times a day. We had several talks, at different times, in regard to this property, but I never got any impression from Jones, previous to this meeting, that he had not been paid for the property. My impression is, that he had told me that he had been paid for it; but I would not be positive that that was so.

(The complainant's solicitor offers the following testimony of the witness Whittemore, de bene, in rebuttal to the anticipated testimony in defence, as indicated by the answer. The solicitor of the defendant, D. W. Jones, objects to the introduction of said testimony. James C. Davis, examiner.)

I saw Col. Jones every day, probably, for some days after the meeting at Bolles's house. There was no special reference had to that meeting in conversation between us for a week or ten days after the meeting. He then came into my counting-room and said, "I have a great mind to blow that fellow, Hill." I asked him what the trouble was. He said Hill had been deceiving these Boston gentlemen in regard to the title of the property of the Mineral Point Mining Co. He said that Hill had stated at the meeting at Mr. Bolles's that he, Jones, had been paid in full. I expressed a good deal of surprise, and asked him if it was possible that it was the fact that he had not

been paid in full. He assured me that it was, and that if I would call upon Mr. Wilder or Mr. Gaylord I could see a copy of the record. I asked him if Buttrick knew those facts. He said, "Of course he does." Col. Jones then said something about publishing the matter in the papers. This was quite early in the morning. Our interview then ceased, and I did not again see him for two or three hours, I should think. He then came into the store again, and says, "I guess you had better say nothing about this matter, for Hill has paid
105 me five thousand dollars this morning, and promises to pay the balance soon, and I think he will." At our first interview that morning he did not request me to make known the facts as to the title, so far as I recollect. I never held any official position in connection with the Mineral Point Mining Company. I never, so far as I can recollect, informed the defendant Jones that I had communicated the information he had given me in regard to the title to Messrs. Bolles & Olmstead.

Cross-examination.

By Mr. E. M. Chamberlin, esq., for defendant, D. W. Jones:

I do not recollect that any meetings were held here in regard to the Mineral Point Mining Co. previous to the meeting at Mr. Bolles's. I don't remember definitely what Mr. Bolles said at this meeting; I think he said this was a very valuable property, and an excellent opportunity for investment. I think he was not then a stockholder in the company. There had been stock sold previous to that meeting; indeed I understood that it had all been sold. I never knew that Mr. Jones had been a stockholder in the company. Mr. Jones occupied nearly the same position during all the meeting. Mr. Hill changed his position somewhat; when he was speaking he stood near Mr. Jones. I was so placed that I could see the whole room. I saw Mr. Jones in the front room of Mr. Bolles's house after the meeting broke up. I do not recollect seeing him in the front room at any other time that evening. My impression is that Col. Jones was standing at the corner of the table, which was in the center of the back parlor, when Mr. Chase asked him if he had received his pay. This question was put after the set speeches had been made, I think. My impression was that the inquiry was started by some person who had not heard Mr. Hill's statement in his speech as to the title. Mr. Chase's question was, with a gesture of the hand: "Well,
106 Colonel, have you received your pay, and what have done with so much money?" I have given the language as nearly as I can remember it. The question made a deep impression upon me from Mr. Chase's peculiar manner of speaking, and because Mr. Chase was almost a stranger to me. I do not remember Col. Jones' asking Mr. Chase, "What did you say, Mr. Chase?" or that Mr. Chase then and afterwards said, "What did you do with so much money?" I understood Mr. Chase in asking the question, "Colonel, have you received your pay?" to refer to the pay for the lands purchased of him by the Mineral Point Mining Company, and I understood that

Col. Jones so understood the question. We were discussing nothing but this particular land. Mr. Hill did not exhibit any papers at this meeting in regard to the property, so far as I recollect, except a plan of the diggings. I do not remember that any other person exhibited any papers in regard to the property; I was giving close attention at the time, and I should have seen them, I think, if they had been exhibited. I did not see any warranty deed of the property or abstract of the title exhibited at the meeting, so far as I recollect.

1 x-q. Did any one but Mr. Hill say that the title was unincumbered?

Ans. Upon reflection, my impression is that Col. Buttrick did.

2 x-q. Did any other person?

Ans. I think that Col. Jones did in his answer to Mr. Chase's question.

3 x-q. What question do you refer to?

Ans. The question "Well, Colonel, have you been paid for the property, and what have you done with the money?"

4 x-q. Was that all that was said in relation to the property being unincumbered?

Ans. So far as I can recollect, that was the bulk of what was said on the subject. The conversation was a long conversation. So far as I recollect no one else, except those three parties, had anything to say about the title.

107 5 x-q. Did Mr. Jones say anything about the title?

Ans. He said he had been paid for the property.

6 x-q. Did any one ask Mr. Jones if the title was perfect?

Ans. Not so far as I recollect. I don't think the question was put to him in that form.

7 x-q. Was the only thing that Mr. Jones said about it, in answer to the question, "Colonel, have you received your pay, and what have you done with so much money?" put by Mr. Chase?

Ans. So far as I recollect, that is all.

8 x-q. Did you not know before this meeting that the property was incumbered?

Ans. I did not.

9 x-q. Did Col. Jones call on you the next morning after the meeting?

Ans. I do not recollect positively, but presume he did.

10 x-q. Did you go with him to see the article of agreement referred to in the bill?

Ans. I did not.

11 x-q. How much did Mr. Jones say was due him?

Ans. Thirty thousand dollars. I think I am wrong about this, on reflection; what he said was that he had not received the first cent.

12 x-q. Did Mr. Jones request you to tell Mr. Bolles and Dr. Olmstead of the amount due to him?

Ans. He did not, so far as I can recollect.

13 x-q. Did you tell them or others?

Ans. I did not.

14 x-q. How much has Mr. Jones received on the agreement from the company?

Ans. Nothing, so far I know.

15 x-q. Are you the treasurer of the company?

Ans. I am not.

16 x-q. Who is?

Ans. Matthew Bolles, at the present time.

17 x-q. How long has Mr. Bolles been the treasurer?

Ans. I do not know precisely; my impression is since February or March, 1866.

108 18 x-q. Do you own more stock now than when you became a stockholder?

Ans. I do.

19 x-q. Were you a stockholder previous to that meeting?

Ans. I was.

20 x-q. When did you last obtain stock in the company?

Ans. I think in the last of October or early part of November, 1865. I cannot state it positively; that is my recollection. It was previous to the meeting, at any rate.

21 x-q. Did you call on Mr. Wilder the day Mr. Jones spoke to you about the company's indebtedness to him, Jones?

(Complainant objects to this question on the ground that it assumes the existence of a state of facts which has not been proved. James C. Davis, examiner.)

Ans. Mr. Jones did not speak to me about the company's indebtedness to him, so far as I can recollect.

22 x-q. Did you call on Mr. Wilder the day on which Mr. Jones told you that Mr. Hill had been deceiving the Boston gentlemen?

Ans. I called at Mr. Wilder's office on the same day, or the day following, I cannot be positive which. I did not see Mr. Wilder.

23 x-q. When did you first see the agreement referred to in the complainant's bill, or a copy of it?

Ans. I cannot state the precise time; but it was sometime in the spring of 1866—April or May, I should say.

24 x-q. When did you first know of the existence of this agreement?

Ans. A week or ten days after the meeting at Mr. Bolles's.

25 x-q. How did you learn of it?

Ans. Through Mr. Jones.

26 x-q. From whom did you receive a notice to attend a meeting at Mr. Bolles's house?

Ans. I do not recollect; I think, however, from Mr. Hill or Mr. Bolles himself.

27 x-q. Do you remember to have received a printed notice, signed by Mr. Bolles, to attend that meeting?

Ans. I do not.

109 28 x-q. Did any other person than Mr. Chase ask Mr. Jones at the house of Mr. Bolles that night, whether Mr. Jones had had been paid?

Ans. I did not hear any one else ask such question.

29 x-q. Where was the office of the company at the time of the meeting at Mr. Bolles's?

Ans. Nominally at Wilder's, I think.

30 x-q. Was it at any time, about that time, kept in your back room?

Ans. There was never anything said or done definitely about an office in my backroom or counting-room. Mr. Hill had once or twice said something about my being treasurer of the company, and had a little before this time had a small safe sent there. That had more to do, however, with the railroad project than with the mining company, as I understood it.

31 x-q. Did the officers of the company meet there for the transaction of business?

Ans. They did not, to my knowledge.

32 x-q. Was a copy of agreement B kept at Mr. Wilder's office?

Ans. Not to my personal knowledge.

33 x-q. Was that the place where you had seen a copy of the agreement?

Ans. It was not; I never saw it there.

34 x-q. Where did you see it?

Ans. An envelope, containing a copy of the agreement, was put into my hands on the Common. I think I did not take it out of the envelope until I reached my home.

35 x-q. By whom was it given to you?

Ans. By Mr. Bolles. It may have been in April or May in this year, possibly; but I think it was in April or May, 1866.

36 x-q. Do you know whether Bolles and Dr. Olmstead received, previous to the meeting at Mr. Bolles's, any stock of the Mineral
110 Point Mining Co. as consideration for selling the stock of said company, or had the promise of any such stock for so doing?

(This question was objected to by the complainant's solicitor as assuming the existence of a fact not proven. James C. Davis, examiner.)

Ans. I do not.

37 x-q. What did Buttrick and Hill pay, or agree to pay, Mr. Bolles and Dr. Olmstead for the selling of stock?

Ans. I do not know.

38 x-q. What did Buttrick or Hill tell you in reference to this matter?

Ans. Nothing.

Direct examination resumed.

I have said in my cross-examination that I presume that Col. Jones called upon me the morning after the meeting at Mr. Bolles's. The reason why I have said this is, that he was in the habit of calling upon me every day. There is no other reason for my saying so. I do not recollect his calling on that day particularly. I have no recollection of any persons' coming into the meeting at Mr. Bolles's after Mr. Hill had finished his remarks. There were one or two

came in quite late in the evening; but whether after his remarks I cannot say.

JOHN M. WHITTEMORE.

Deposition of M. Bolles.

Matthew Bolles: I am sixty years of age; I live in Boston, Massachusetts, and do business there as a banker and broker, at No. 90 State st. I am the complainant in this cause. I have known the defendant, D. W. Jones, since November, 1865; I think I first met him in the latter half of the month, but I cannot be very positive. I think I first met him at the house of the Rev. Dr. J. W. Olmstead. I was invited by Dr. Olmstead to come to his house and meet some gentlemen from Wisconsin, and there I was introduced, so far as I recollect, first to Col. Jones, as ex-secretary of State from Wisconsin. By Col. Jones I mean D. W. Jones, the defendant.

111 I know that Col. Buttrick and Mr. Hill were there. I am not positive that Col. Jones was at that meeting, but to the best of my belief he was there. Most of the conversation was carried on by Col. Buttrick and Mr. Hill. They spoke of the mining interest at Mineral Point. They stated that they had made a purchase there of Col. Jones, and their object was to interest Boston gentlemen to take an interest with them. The purchase was of real estate, as I understood it, of mineral lands. There was nothing said as to whether the property was unincumbered, except to give a general history of the property. This was all by Buttrick and Hill. They stated that they had purchased the property and paid for it. There were no persons present except the three persons I have named, and Dr. Olmstead and myself. We were all sitting within a radius of fifteen feet, and each person must have heard all that was said. Buttrick and Hill stated that the object of their coming to Boston was to interest other parties to take hold with them; they having paid for the property, they now wanted additional capital to improve and develop it. After they had made their statement they asked me if I thought parties could be found here to take an interest with them in it. I replied that if the facts were as they stated I had no doubt that parties could be found. They wanted to know then what steps had better be taken to arrive at that result. I told them I thought there had better be a meeting of substantial men, men of means, to listen again to their statements. The suggestion struck them favorably, and accordingly quite a number of gentlemen were invited to meet them at my house.

1 q. Did Col. Jones say anything at the meeting at Dr. Olmstead's house of which you have just spoken?

(Question objected to by the solicitor of the defendant, D. W. Jones, because it assumes that Col. Jones was present at that meeting. James C. Davis, examiner.)

112 Ans. I do not recollect that any thing was said at that meeting except by Col. Buttrick and Mr. Hill.

A meeting took place at my house the latter part of November,

1865, in consequence of the invitation given as above stated. The persons present at that meeting, as nearly as I recollect, were Col. Jones, Col. Buttrick, Mr. E. J. Hill, Mr. E. J. Cooper, Mr. J. M. Whittemore, Mr. H. S. Chase, Mr. J. W. Olmstead, myself, my son, (M. S. Bolles,) Mr. Reuben S. Wade, Mr. Jones, (a leather merchant,) and Mr. Robinson, (a grocer.) There were others whose names I do not remember. There were twelve or fifteen persons present in all. The room in which the meeting was held is not far from eighteen feet square, probably a little under. There was a table in the centre of the room, with writing materials upon it. This was the back room of a suite of three rooms. There was a sofa wheeled round so as to nearly stop the passage to the room, so that it shut them all into the back parlor. The sole topic of conversation was the mineral lands at Mineral Point, represented by Buttrick & Hill, as bought by themselves and others under the style of the Mineral Point Mining Company. Buttrick & Hill stated that this property was bought of Col. Jones, the defendant. They stated that they represented a majority in interest, and that they wanted to sell to Bostonians (40,000) forty thousand shares. I am not positive that they stated at this time the amount paid for improvements on the lands, but they stated positively that they paid thirty thousand dollars for the land to Col. D. W. Jones. Buttrick & Hill talked alternately, ane whatever one said I understood to be also the statement of the other. They talked in an ordinary tone—such a tone as every one in the room could hear. I was one of the furthest persons from the speaker, and I heard every thing. These lands were the sole topic of conversation, and it was a very interesting one. All persons present were paying attention to what was said, and all were very much interested. Mr. D. W. Jones was
113 very near Buttrick & Hill when they were talking; within ten feet of them, and in the same room with them. I do not recollect that he said any thing, at the time of these remarks, of Buttrick & Hill. He did not contradict them at all. Very soon after these remarks by Buttrick & Hill, Mr. H. S. Chase said "Col. Jones, have you got your pay?" The Colonel replied "I have, and I am almost sorry, for I have put the money where I fear it is not as safe." Mr. Chase put this question in an emphatic tone of voice, making at the same time a gesticulation of his arm. Mr. Jones' reply was in an audible tone, and so that every one in the room could have heard it. I purchased stock in the company subsequent to this. I induced and solicited other persons to purchase stock of the company, also, to a very large amount, solely in consequence of the statements made by Buttrick & Hill, and Col. Jones in reference to the value of the property and its being wholly unincumbered. There would not a share have been taken if they had not made those statements. When Mr. Chase put this question to Col. Jones, Mr. Chase and Mr. Jones were in the same room. We were all in the same room.

Cross-examination.

By E. M. Chamberlin, esq., for the defendant, D. W. Jones:

1 x-q. You say that Mr. Chase said to Col. Jones, "Col. Jones, have you got your pay?" and that Col. Jones responded that he had, and that he was almost sorry, for he had put the money where he feared it was not so safe. Do you remember of Col. Jones saying any thing else at that meeting?

Ans. Nothing, excepting descriptive of the property.

2 x-q. What do you mean by descriptive of the property?

Ans. Speaking of its mineral value, as easy of access, and inexhaustible in quantity.

3 x-q. Do you remember any thing else that Col. Jones said?

Ans. I do not.

4 x-q. Did Col. Jones then make any statement that the property was unincumbered?

114 Ans. I understood his reply that he had got his pay as an assurance that the property was unincumbered.

5 x-q. And is that all from him that you heard about what you believed to be the unincumbered condition of the property?

Ans. Buttrick & Hill had informed the meeting that they had a warranty deed of the property from Col. Jones and his wife; that they had paid for it; they said they had the evidence, an abstract of the title, which they would show, if we desired it, and the deed. This statement of theirs, and the reply of Col. Jones to the question whether he had been paid, settled it as a matter of fact.

6 x-q. And is that all from him that you heard about what you believed to be the unincumbered condition of the property?

Ans. I recollect nothing else.

7 x-q. To what subject did you believe that inquiry of Mr. Chase's "Col. Jones, have you got your pay?" to refer?

Ans. To the purchase of the Mineral Point property for thirty thousand dollars.

8 x-q. And to what do you believe Col. Jones referred in his answer to that question?

Ans. To the same purchase.

9 x-q. To whom was Col. Jones talking just previous to the putting of this question by Mr. Chase?

(Complainant's solicitor objects to this question as assuming the existence of a fact not proved. James C. Davis, examiner.)

Ans. I was not aware that he was talking to any one.

10 x-q. Who called the meeting at your house?

Ans. I did.

11 x-q. Were the doors open between the rooms mentioned by you?

Ans. They were.

12 x-q. Were any of the persons present, in either of the two front rooms during the evening?

Ans. During the meeting everybody was in the back room or the entrance to the back room. All passed through the other two rooms.

when they entered the back room, before the meeting and when they left after the meeting, but they did not remain in those rooms.

115 13 x-q. Did you see Col. Jones and your little son together in one of those other rooms during the evening?

Ans. I don't recollect it.

14 x-q. Do you remember of your little boy being there that evening?

Ans. I do not.

15 x-q. Was this an informal meeting? Was there a chairman elected?

Ans. I think it was informal. I think no chairman was elected.

16 x-q. Are you treasurer of the Mineral Point Mining Company?

Ans. I am now, and have been such treasurer since early in 1866. I think it was in April 1866. I was elected to the office a few weeks earlier than that, I think.

17 x-q. In the agreement referred to in your bill of complaint, do the company agree to pay Col. James any money, and how much? I refer to the agreement marked B.

(Complainant's solicitor objects to the question as incompetent, and it is thereupon waived. James C. Davis, examiner.)

18 x-q. When did you first know of the agreement marked B?

Ans. In December, 1865, I think.

19 x-q. Did you obtain the original of that agreement from Col. Jones at Mineral Point, and if so when?

Ans. Yes. The Colonel loaned it to me sometime in 1866. I think in March, 1866.

20 x-q. Were securities put in your hands that you might pay money on this agreement?

Ans. No, sir.

21 x-q. Have you paid Col. Jones money on this agreement?

Ans. Never.

22 x-q. Have you paid the drafts of Col. Jones?

Ans. Never.

22 x-q. Have you paid drafts drawn in his favor?

Ans. My impression is that I have paid drafts of Buttrick & Hill, drawn on M. Bolles & Co., in favor of Col. Jones.

116 24 x-q. Did you not know, at the time said drafts were paid, that they were in part satisfaction of the purchase money of the Mineral Point Mining Co. lands?

Ans. I think I did.

25 x-q. Were Butterick & Hill officers of the company?

Ans. Col. Buttrick was president, Mr. Hill was secretary.

26 x-q. Were you treasurer of the company at the time such drafts were paid?

Ans. I was elected treasurer Feb. 6, 1866. I think I was treasurer when these drafts were paid, but these drafts were not paid by me as treasurer.

27 x-q. Did Buttrick & Hill have money then to pay those drafts?

Ans. When the drafts were paid, they had money there.

28 x-q. Did they deposit money there to pay them?

Ans. The drafts were paid from the proceeds of shares in the Mineral Point Mining Co., sold for Buttrick & Hill.

29 x-q. Did you sell those securities?

Ans. I did.

30 x-q. Did you not tell Col. Jones at Mineral Point that he should have his money? And did he not tell you the amount of the claim?

(Question objected to by complainant's solicitor, as irrelevant. James C. Davis, examiner.)

Ans. No, sir.

31 x-q. Did you tell Col. Jones, at Mineral Point, that you fully understood the nature of the contract, and had ample means to pay him, and would do so as soon as you sold enough stock, or realized upon that already sold?

(Question objected to, by complainant's solicitor, as irrelevant. James C. Davis, examiner.)

Ans. I have no recollection of any such thing, or any part of it.

32 x-q. Did Col. Jones notify you in writing that he looked to the Mineral Point Mining Co. for the purchase money, and not to Buttrick & Hill?

(Question objected to, by complainant's solicitor, as irrelevant and as asking for the contents of a written instrument not shown to be lost. James C. Davis, examiner.)

Ans. I have no idea, or recollection that he ever did.

117 33 x-q. Did you request Col. Jones to get Buttrick & Hill to draw on you, saying you would pay the draft?

(Question objected to, by complainant's solicitor, as irrelevant. James C. Davis, examiner.)

Ans. While I was absent, on my way to Mineral Point, Buttrick & Hill drew on M. Bolles & Co. a draft which was accepted by my clerk. He had no authority to accept, and they were not in funds. I wrote Col. Jones, in whose favor the draft was drawn, if he would get Buttrick & Hill to draw upon M. Bolles & Co., in the following words, namely: "When in funds, please pay to the order of D. W. Jones," if he would get such a draft, I would accept it.

34 x-q. Do you know what Col. Jones replied?

(Question objected to as irrelevant, by solicitor for complainant, and as seeking for the contents of a written instrument by oral testimony. James C. Davis, examiner.)

Ans. I don't recollect.

35 x-q. Were the drafts that were paid part of the purchase money?

(Objected to as irrelevant, by the solicitor for the complainant. James C. Davis, examiner.)

Ans. I do not know.

36 x-q. When was the last one paid?

(Question objected to, as irrelevant. James C. Davis, examiner.)

Ans. I cannot recollect. I will inform myself and state further as to this before my examination is closed.

37 x-q. Did Buttrick & Hill deposit securities with you to perfect the title?

(Question objected to as irrelevant, by complainant's solicitor. James C. Davis, examiner.)

Ans. They left with me securities for sale. And as fast as these securities were sold, they were at liberty to draw for the proceeds for any purpose. They were not deposited, as I understood it, to be drawn against for any specific purpose.

38 x-q. What were these securities?

Ans. Shares in the Mineral Point Mining Co.

39 x-q. What was the amount of them?

(Question objected to as irrelevant, by complainant's solicitor.
118 James C. Davis, examiner.)

Ans. I do not recollect.

40 x-q. Did you own any stock in the company previous to the meeting at your house?

Ans. No.

41 x-q. Would you have become an owner of such stock but for the representations of Hill, Buttrick and Dr. Olmstead?

Ans. I should not have purchased on any representations made by these parties alone.

42 x-q. How much stock, if any, was received by or promised to you from or by Mr. Hill or Dr. Olmstead, or both, for your services in selling or trying to sell the stock of the Mineral Point Mining Company?

(Question objected to by complainant's solicitor, as implying the existence of a fact not proved, and also as irrelevant. James C. Davis, examiner.)

Ans. Mr. Hill promised to give me four thousand of his shares for performing certain services, but I never received them. I never received any stock in the Mineral Point Mining Company from any person for any services; I never was employed to sell stock for the Mineral Point Mining Company, nor was any stock ever promised to me by said company.

43 x-q. For what services were you promised these four thousand shares?

(Question objected to as irrelevant, by complainant's solicitor. James C. Davis, examiner.)

Ans. For selling Buttrick & Hill's shares.

44 x-q. But for the representations of Dr. Olmstead and Buttrick & Hill would you have had any thing to do with the company?

(Question objected to by complainant's solicitor as hypothetical and irrelevant. James C. Davis, examiner.)

Ans. I never received any representations from them except when accompanied by the statements of others.

45 x-q. Who was the principal speaker at your house?

Ans. Alternately Col. Buttrick and Mr. Hill were the principals.

46 x-q. Did Moses M. Strong also say something?

Ans. I think he did. He said a good deal about geography and mineralogy. He had a map there.

47 x-q. Did you also speak?

119 Ans. I think I did.

48 x-q. Did you say you could see the dollars sticking out?

Ans. Of course it is not impossible, but I think not. It does not sound at all like Matthew Bolles.

Direct examination resumed.

I think it was about the middle of December, a fortnight or more after the meeting at my house, that I first heard that Col. Jones had not been fully paid for the land. I heard it from Mr. Hill. Col. Jones did not, that fall, nor until I saw him at Mineral Point in March, 1866, tell me himself that he had not been fully paid for the land. When Col. Buttrick and Mr. Hill made their statements at my house concerning the property, and its being unincumbered, Col. Jones was sitting where he could not but have heard them, and he did not dissent from what they said. Since I have been treasurer of the company, the company have never paid any thing to Col. Jones on account of the purchase-money for this property.

Cross-examination resumed.

49 x-q. Were not the drafts that were paid to his order drawn by officers of the company?

Ans. They were not drawn by officers of the company, as such, but the persons who drew them were then, and are now, officers of the company. Mr. Buttrick was president and Mr. Hill was secretary of the company.

Direct examination again resumed.

The drafts were signed "Buttrick & Hill." Mr. Buttrick and Mr. Hill are lawyers and are copartners under the firm name of "Buttrick & Hill," in Milwaukee. The last draft paid by M. Bolles & Co. to the order of Col. Jones, drawn by Buttrick & Hill, was paid June 19th, 1866. The amount of it was $5,821. I constituted the firm of M. Bolles & Co. at that time. I had then no partner.

MATTHEW BOLLES.

120 *Deposition of M. S. Bolles.*

Michael Shepard Bolles. I live in Boston, Massachusetts, at 211 Shawmut avenue; do business in said Boston, as a banker and broker, at No. 90 State st., in partnership with my father, Matthew Bolles; our firm name is M. Bolles & Co. I am twenty-three years of age. I am not a stockholder in the Mineral Point Mining Co. I was present at a meeting held in the latter part of 1865—the latter part of November or the first of December, at my father's house, concerning the Mineral Point Mining Co. Messrs. E. L. Buttrick, E. J. Hill,

Col. D. W. Jones, Messrs. R. S. Wade, J. W. Converse, J. M. Whittemore, E. J. Cooper, H. S. Chase, my father and myself, were present. There was another Mr. Jones present, whose initials I do not know, and some others, whose names I do not recall. The room in which the meeting was held was an ordinary back parlor, some fifteen to twenty feet square; this room opened into a larger front parlor; there was a small centre table in the middle of the room, and chairs and sofas arranged around the room. My impression would be there was not a single person out of the back room—certainly not enough to make it noticeable; that I am sure of. Mr. Buttrick, Mr. Hill and Col. Jones were the principal talkers at the meeting, answering interrogatories from anybody who might ask them. Buttrick and Hill talked principally about the land and buildings of the Mineral Point Mining Company and their value. I don't know whether it was one or both, but they distinctly stated, one or the other, that they purchased the land of Mr. Jones. Most distinctly, there was nothing said by either Buttrick, Hill or Jones about there being any mortgage or incumbrance on the land. The property was not represented to be incumbered, but, on the contrary, the impression we received was that it was unincumbered. The conversation at the meeting was carried on in a tone a little louder than ordinary. I was about fifteen feet from Col. Jones, and about half that distance from Buttrick and Hill. Buttrick and Hill and Jones were not quite diagonally opposite to each other—Jones was at one corner of the room and Buttrick and Hill nearly in the centre of the room. He was at about the same distance from Buttrick and Hill that I was. I could hear all the remarks of Buttrick and Hill and Jones distinctly. Mr. Chase asked Mr. Jones if he had got his pay. The conversation was not remarkable between Mr. Chase and Col. Jones; but that question impressed me. Col. Jones replied "Yes." That was only the substance of what he said; I cannot give his precise words. The question and answer were in a tone of voice to be heard distinctly all over the back parlor.

121

Cross-examination.

By E. M. Chamberlin, esq. for the def't, D. W. Jones.

1 x-q. Were you present during all the meeting?

Ans. Yes, sir.

2 x-q. Was the meeting organized by the choice of officers, or was it informal?

Ans. It was informal.

3 x-q. Were the other rooms open into the one where the meeting was held, during all the evening?

Ans. They were.

4 x-q. Did your father speak at that meeting?

Ans. He did.

5 x-q. What did he say?

Ans. He introduced Col. Buttrick and Mr. Hill and Mr. Jones. (I refer in this and in my previous testimony to Col. D. W. Jones, the de-

fendant in this case.) I recollect nothing further that he said; but he made other remarks, which I do not now remember.

6 x-q. In your direct examination have you reported all that you recollect Col. Jones to have said?

Ans. I have not; he corroborated the statements of Messrs. Buttrick and Hill as to the value of the property.

7 x-q. Is that all that you heard from him?

Ans. Substantially all; what he said as to the value of the property was said as to its value for mining purposes.

8 x-q. At that time did you hear Mr. Chase ask anything else of Col. Jones but if he had got his pay?

Ans. I did not, that I remember.

9 x-q. Were any other persons speaking at the time that
122 inquiry was put?

Ans. My impression is there were.

10 x-q. Do you remember who they were?

Ans. I do not.

11 x-q. Do you know to what that conversation referred?

Ans. I do not.

12 x-q. Was any stock taken up at that meeting?

Ans. My impression would be, not.

13 x-q. Do you know how soon after stock was subscribed for by any person?

Ans. Within a day or two after the meeting stock was subscribed for.

14 x-q. Who was president of the Mineral Point Mining Co. at the time of that meeting?

Ans. I do not recollect.

15 x-q. Who was secretary?

Ans. My impression is E. J. Hill.

16 x-q. Is your father treasurer of said company?

Ans. He is.

17 x-q. How long has he been so?

Ans. Since its organization, I think.

18 x-q. When was it organized?

Ans. My impression is that the company was organized in the winter of 1865–1866.

19 x-q. Do you know of the existence of an agreement a copy of which is annexed to the complainant's bill, and marked B?

Ans. I do not.

20 x-q. Has your firm ever paid drafts drawn in favor of Col. Jones?

(Question objected to by complainant's solicitor, as irrelevant, and waived. James C. Davis, examiner.)

21 x-q. Has your firm paid drafts, drawn in favor of Col. Jones, by persons who were officers of the Mineral Point Mining Co?

(Question objected to by complainant's solicitor, as irrelevant, and as calling for the contents of written instruments not exhibited or shown to be lost. James C. Davis, examiner.)

Ans. I do not remember.

22 x-q. Do you remember if any payment has been made to Col. Jones by your firm?

(This question is objected to by complainant's solicitor, as
123 irrelevant. James C. Davis, examiner.)

Ans. I do not remember.

M. S. BOLLES.

Deposition of J. W. Olmstead.

John W. Olmstead. I am fifty years of age. I live in Boston, Massachusetts. I am an editor and publisher. I edit and publish, with assistance, the Watchman and Reflector, and the Youth's Companion; both are weeklies, published in Boston. I was present at a meeting at the house of Matthew Bolles, near the first of December, 1865; about the last week of November. The persons present, whom I remember, were Matthew Bolles, M. S. Bolles, (his son,) Hezekiah S. Chase, John M. Whittemore, N. P. Mann, E. L. Buttrick, Edward J. Hill, David W. Jones, (the defendant in this case,) and Moses M. Strong, of Mineral Point, Wisconsin. I do not remember any other persons present at this meeting. There were some other meetings held at M. Bolles's house, later, at which other persons were present. The general subject of conversation at this meeting was the property of the Mineral Point Mining Co., at Mineral Point, Wisconsin; which property was the property purchased of Col. Jones. This meeting was held preliminary to the raising of money for the company, and creating an interest in the company, and inducing persons to take stock in the company. The principal speakers at this meeting were Edwin L. Buttrick, Col. D. W. Jones and Mr. Edward J. Hill, (subordinately,) Mr. Strong also spoke, I remember. I should say that Buttrick and Jones were the most preminent in the meeting. Col. Jones was introduced to the meeting by Messrs. Buttrick and Hill, as the former secretary of State of Wisconsin, and the gentleman of whom the property was bought. I do not remember that there was any reference made, distinctly, to the title of the property. I do not remember that the terms, "title" or "incumbrance," were used. I remember that a conversation occurred at this meeting between Col.

Jones and Mr. H. S. Chase. Those who know Mr. Chase, know
124 very well that he has a very direct and emphatic way of speaking, and he said, "Well, colonel, have you got your pay?" His reply was, "Yes, and I have put the money where am afraid I shall be sorry for it." I understood the question and answer to refer to the property which had been bought of Col. Jones—the whole property. I remember all the more distinctly from the emphatic way in which the question was put, and the form of the answer. Both question and answer were in a distinct, audible tone. I do not remember that there was anything inaudible at all; everything was very distinct. Buttrick and Hill and Jones and I were all in the small back parlor of Mr. Bolles's house. I should think the room was, perhaps, 16 by 18 feet in size. I heard all this distinctly. I was sitting, as nearly as I remember, about in the centre of the circle. I

took some stock in the Mineral Point Mining Co. subsequently to this meeting.

1 q. State whether or not this representation of Col. Jones, that he had been paid for the property, was a material inducement to you to purchase the stock.

(Objected to by the solicitor of the defendant Jones. James C. Davis, examiner.)

Ans. It most certainly was. There was a meeting at my house prior to this, at which Messrs. Buttrick, Hill and Bolles, Col. Jones and myself were present. There was also a meeting at the Parker House of the same persons and others, subsequent to this meeting at my house, and prior to the meeting at Mr. Bolles's. At about that time I saw Jones frequently elsewhere—almost daily.

2 q. At either of these three meetings, or at any time during your almost daily intercourse with the defendant, Jones, at this time, did he make any statements to you which were in conflict with the statements which he made at Mr. Bolles's?

Ans. No. I am auditor of the Mineral Point Mining Co., and have been such auditor for a year and four months, perhaps. The Mineral Point Mining Co. have never made any payments to Col. Jones for this land.

Cross-examination.

By E. M. Chamberlin, for the defendant, D. W. Jone:

125 1 x-q. What called your attention to the question of Mr. Chase, "Well, Colonel, have you got your pay?"

Ans. It was the manner of putting it, as well as the nature of the question itself, it being a vital question.

2 x-q. At the time this question was put were other conversations being carried on by different members of the party?

Ans. I do not remember distinctly about that.

3 x-q. Had any set speeches been made that evening?

Ans. I think there were; those who spoke in a more set way were those to whom I have referred, Buttrick, Hill, Jones and Strong, setting forth the capabilities and possibilities of the property, all relating to mining and the development of the property.

4 x-q. When Mr. Chase said "Well, colonel, have you got your pay?" was he engaged in an ordinary conversation?

Ans. I do not remember; I only remember there was such a pause in the proceedings as admitted of the question; it came in very naturally and did not seem to be forced any.

5 x-q. At that time did Mr. Chase say anything else to Col. Jones?

Ans. I don't remember distinctly what followed.

6 x-q. At that time did Col. Jones say anythink else to Mr. Chase?

Ans. I do not remember.

7 x-q. Was Mr. Jones standing or sitting at the time?

Ans. He was standing near a table or a mantel.

8 x-q. How long had he been so standing?

Ans. That I could not say; I only remember that he was then

standing; he usually does, during an interview, rise frequently and walk backward and forward. I did not see anything unusual in his manner or attitude.

9 x-q. Were other rooms at that time open into this back parlor?

Ans. Another room, which was the main parlor, opened into it by folding doors, which were open.

10 x-q. Have you stated all the conversation which you heard between Chase and Jones at that time?

126 Ans. I don't remember distinctly other conversation.

11 x-q. Was there any other conversation between Chase and Jones at that time?

Ans. I do not remember that there was any other conversation between them at that time.

12 x-q. Were the question and answer that you have reported all that you remember to have been said by Chase and Jones at that time?

Ans. Yes.

13 x-q. Did Jones say anything else during that evening?

Ans. He did; he spoke glowing of the property. What he said was confirmatory of the representations of Buttrick and Hill, generally; which representations were that it would be possible to make the property pay for itself within a year, on putting on sufficient force; that there was the largest promise and development of galena, dry bone and black-jack, different qualities of zinc ores. I remember that he referred to a new process of desulphurizing black-jack, that had been discovered by one Robert George, of Mineral Point, making black-jack, as well as dry bone, very valuable. He described the method of mining; the impression which he made was the same as that made by Buttrick and Hill as to the property—as to its value in both galena and zinc ores.

14 x-q. Have you now stated the substance of all Jones said at that meeting?

Ans. I have so nearly as I remember it.

15 x-q. Was any stock in the Mineral Point Mining Co. subscribed for at the meeting at Mr. Bolles's?

Ans. There was not.

16 x-q. When did you take stock?

Ans. In the early part of December, 1865.

17 x-q. Do you know of the agreement marked B, a copy of which is annexed to the complainant's bill?

Ans. I know of its extence—have seen a copy of it; it was sometime in the first half of the year 1866 that I first knew of it; and I think I then saw a copy of it.

18 x-q. Did you take stock in the company after knowing of the existence of that agreement?

127 Ans. No, my stock was taken at least three months anterior to my knowing of it.

19 x-q. Did you take all your stock at one time?

Ans. I did not.

20 x-q. How much did you pay for the stock you took?

Ans. The first stock I took was taken in exchange for a house and land: twelve hundred shares in exchange for the equity of redemption of a house, a valuable homestead, and a thousand shares in exchange for lots of land in Roxbury and West Roxbury, which house and lands were exchanged at a valuation of ($5) five dollars a share for the stock, (its par value.) Two thousand other shares taken subsequently to all these meetings, taken in connection with the other subscriptions, I subscribed for at the same rate as the others did, $2 50 two dollars and a half a share.

21 x-q. From whom did you receive the certificates for your stock?

Ans. The first 2200 shares came from the stock of George G. Wilder; one thousand directly from him and the other twelve hundred from another party, John F. Nickerson. The other 2000 shares I received directly from the treasurer of the company, E. L. Buttrick, at that time.

22 x-q. Was any of the company's stock left with Matthew Bolles?

(This question is objected to by the complainant's solicitor as irrelevant and incompetent. James C. Davis, exam'r.)

Ans. Yes.

23 x q. How much, and when, and whom? (This question is objected to by the complainant's solicitor as irrelevant and incompetent. James C. Davis, examiner.)

Ans Forty thousand shares of stock were understood to have been placed by the then owners in the hands of Mr. Bolles, Dec. 1, 1865, for sale, to be sold for ($100,000) one hundred thousand dollars, the same to form a working capital. Mr. Bolles at that time was not an officer in the company. The stock so deposited was owned by a number of persons, but not a large number.

24 x-q. Under what condition was this amount of forty thousand shares deposited with Mr. Bolles? (This question was objected to and withdrawn. James E. Davis examiner,)

123 25 x-q. Was any of said stock given or promised to Mr. Bolles for his services in selling the same?

(This question is objected to by the complainant's solicitor as incompetent and irrelevant. James C. Davis, examiner.)

Ans. I never knew anything about the transactions between Mr. Bolles and other parties in that line.

26 x q. Did you believe the statements of Buttrick and Hill in relation to the property?

Ans. I did; particularly as they were so braced up.

27 x-q. But for your confidence in them, would you have taken stock?

Ans. It will be seen that I took stock in the first instance without knowing Buttrick; I had seen Hill.

28 x-q. When did you first take stock?

Ans. In November; the latter part of November, I should say, 1865, before the meeting at Mr. Bolles's house.

Direct examination resumed.

3 q. Please refer to the thirteenth question put you in cross-examination, and your answer thereto, and state what sum would have to be earned in order that the property should pay for itself within one year.

Ans. I don't suppose that by that expression they meant that the par value of the stock could be earned; I understood they meant perhaps half that. Their words may have been that its value could be earned "in a year or so," and not as I have said, "in a year."

4 q. Did you pay cash for any stock purchased by you prior to the meeting at Mr. Bolles's?

Ans. As already stated, I paid real estate; not cash; it was what was as good as cash, however.

5 q. Did you pay cash for what you purchased subsequent to the meeting at Mr. Bolles's?

Ans. I gave my notes. The notes have not been paid, and the stock is held as security for them.

6 q. Would you have purchased any stock in the company if you had known that the company had not a good and unincumbered title to the property?

(This question is objected to by the solicitor for the defend-
129 ant, D. W. Jones. James C. Davis, examiner.)

Ans. I never should have done so.

Cross-examination resumed.

29 x-q. Did you know that the company had a good and unincumbered title to the property?

Ans. I supposed without a doubt they had; I never suspected that the property was incumbered; I did not know it absolutely, and could not at the time.

JOHN W. OLMSTEAD.

Deposition of H. S. Chase.

Hezekiah S. Chase. I am sixty-two years of age; I reside in Boston, Massachusetts, and do business in manufacturing and selling boots and shoes, at No. 20 and 22 Pearl st., Boston; I am a stockholder in the Mineral Point Mining Company; I was present at a meeting at the house of Matthew Bolles the last of November, 1865; Mr. Matthew Bolles and his son Shepard Bolles, Col. Buttrick, Mr. Hill, (of Milwaukee,) Col. D. W. Jones, the defendant, (of Mineral Point,) Mr. Strong, (of Mineral Point,) Rev. Dr. Olmstead, Mr. Whittemore, Mr. Frederick Jones, (who does business in Pearl street, and who was at the meeting during a part of the evening only,) and others were present; there were fifteen or twenty persons present in all; these whom I have mentioned I remember certainly as being there. The meeting was in a back parlor, which may have been

fifteen by eighteen feet in size, in the rear of the main drawing-room; the persons present were gathered mainly in the back parlor, and some were just at the outer edge of it, in the main drawing room. The general topic or subject of conversation was the placing of a portion of the stock of the Mineral Point Mining Company, and about the Mineral Point Mining Company's property. Col. Buttrick and Mr. Hill were the principal speakers; Col. Jones was frequently appealed to. Messrs. Buttrick and Hill represented that they had got a valuable property there; that they had bought the fee of the
130 property. I inferred that Buttrick and Hill were the purchasers of the property, and that subsequently to the purchase they organized the Mineral Point Mining Company; I inferred that from the talk. They had bought the fee of the land from Col. Jones, and certain mining rights of other parties. Buttrick and Hill represented all through that the property was unincumbered. They said this in the presence of Col. Jones. These representations were made in an ordinary tone of voice. Col. Buttrick spoke a little more emphatically than Mr. Hill; Mr. Hill was more quiet in his tone and manner. Col. Buttrick was somewhat hoarse that night, and it was a little more of an effort for him to talk; he talked more explosively than he otherwise would have done. I heard them distinctly; Col. Jones was quite near the centre of the circle when these remarks were made; Col. Buttrick was at the table, and Col. Jones was but a very few feet from him; Buttrick at that time was the treasurer, and Hill the secretary of the Mineral Point Mining Co. From the whole conversation, and the responses of Col. Jones, I felt certain in my own mind that the property had been paid for. The amount of the money being pretty large, I says to the colonel: "Well, colonel, what have you done with your money?" Well, he said he had placed it where he was afraid it was not as safe as it was in the land. I do not recollect any further conversation between Col. Jones and myself. I made no further inquiry. I owned no stock in the Mineral Point Mining Company at the time of this meeting. I subscribed for some stock the next morning.

1 q. State whether or not the statements of Col. Jones and of Buttrick and Hill were material inducements to you to purchase stock in the company.

(This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. If it had not been for those statements, I should not have purchased any stock. I first knew of the agreement, a copy of which is annexed to the complainant's bill, and marked B, early in
131 June last, 1867, when I saw the original at Mineral Point. I first heard it stated that Col. Jones had a claim or lien upon the property of the Mineral Point Mining Co. in Feb. or March, 1866. The colonel came into my office the next morning after the meeting; I had a conversation, relative to Col. Jones' claim, with Col. Jones at Mineral Point, in June last, 1867.

2 q. State the substance of this conversation, as nearly as you can recollect it.

(This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. I told Col. Jones that had it not been for his presence at that meeting, confirming and backing up the statements of Buttrick and Hill, that I certainly should not have subscribed for a dollar of the stock, and I did not believe that any body else would, and that he would have had his land to-day; that if he had just stated that the land was not paid for it would have knocked the whole thing in the head; that showing us one false statement would have satisfied us that the whole was untrue, and nobody would have subscribed. I told him it was his duty to have let us known the facts, and expressed surprise that he did not. He said that he could not well get up in the meeting and contradict them, as he did not know whose toes he might tread on. He said he did go the next morning and tell Mr. Whittemore that the whole thing was false, and he was a good mind to publish them in the papers as attempting to defraud and swindle, or words to that effect. He seemed to think that he told Mr. Gaylord likewise. I don't know who Mr. Gaylord is. I said, we Boston subscribers have paid a hundred thousand dollars for two-fifths of this property; I said, we had paid our money and parted with this large sum in consequence of his and Buttrick and Hills' statements that evening in regard to the property being free from incumbrances, and in regard to the value of the property; I do not recollect any particular reply that he made to this.

132 I am an officer of the Mineral Point Mining Co. I was elected a director and vice-president of the co. at a meeting of the stockholders, in February, 1866, at Mineral Point. I have been conversant of the affairs of the company since that time. The company have never paid Col. Jones anything for this land to my knowledge.

Cross-examination.

By E. M. Chamberlin, esq., for the defendant, D. W. Jones:

1 x-q. At what time was the first meeting of the company that you attended?

Ans. I cannot remember.

2 x-q. When was the first meeting of individuals in relation to this subject, which you attended?

Ans. The last of November, 1865; the meeting at Mr. Bolles's of which I have already spoken.

3 x-q. Were you acquainted with Col. Jones previous to that evening?

Ans. I was not.

4 x-q. Were you acquainted with Buttrick and Hill previous to that meeting, and how long had you been acquainted with them?

Ans. I never saw either of them till that meeting.

5 x-q. Had you spoken to any one in relation to the Mineral Point Mining Co. previous to that evening?

Ans. I never heard of it, sir, previous.

6 x-q. Were any papers in relation to that property exhibited at the meeting?

Ans. There was the prospectus, and a plan of the grounds showing the location of various shafts and the tramway, and I believe the location of some lead smelting works which were on the property. I do not remember any other papers that were exhibited.

7 x-q. Were there any other papers exhibited?

Ans. I do not remember any?

8 x-q. Was the back parlor on a line with the long drawing-room?

Ans. The back parlor took in the width of the main drawing-room, and also of a hall which ran along the side of the drawing-room. The back parlor was wider than the main drawing-room.

133 9 x-q. Could all of those in the back parlor see the whole of the drawing-room?

Ans. I should think they could not; most of them could.

10 x-q. Who did you understand were owners of the property at the time of that meeting?

Ans. I understood that Buttrick and Hill were principal owners and managers of the property.

11 x-q. Who were managers of the company at that time?

Ans. Buttrick and Hill, so far as I knew and understood.

12 x-q. Had Col. Jones anything to do with the company at that time?

Ans. I did not understand that he had.

13 x-q. Has he had at any time anything to do with the company?

Ans. Not to my knowledge?

14 x-q. You state in your direct examination that you said to Col. Jones, "Well, colonel, what have you done with your money?" and that he said that he had placed it where he thought it was not so safe as in the land. Was anything else said by either of you at that time?

Ans. I might have said "Colonel, have you got your pay for it?" previous to that question. I had no general conversation with Col. Jones. He made various statements in regard to the property, to which I listened, generally corroborative of what Buttrick and Hill had stated.

15 x-q. What had Buttrick and Hill stated?

Ans. They stated that this property was a very valuable property; that with this working capital of a hundred thousand dollars very large dividends might be paid on the part of the stock; that the various mining rights were all secured; that the various shafts and the tramway opened the mines so that a very large force could immediately be put on, and very large results might be attained immediately; that all this valuable property was secured, the fee of the land secured, all paid for; and if they could secure this $100,000 as a working capital, stockholders could depend upon very large

134 dividends immediately. I don't remember anything further.

16 x-q. Did they say they wanted to dispose of 40,000 shares to obtain a working capital?

Ans. They did.

17 x-q. Whose shares were these which were to be disposed of?

Ans. Buttrick and Hill were to procure them somewhere or other.

18 x-q. At the time you put the question to Col. Jones, "Well, colonel, what have you done with your money?" was he sitting or standing?

Ans. I think when I first put the question he was sitting, and just about rising from his chair. At any rate, when he answered, he was standing, and stepping along slowly towards the mantel-piece. He was about on a line with the partition which divided the back parlor from the main drawing-room.

19 x-q. Do you know of any other claim or lien but that of Jones upon the property?

Ans. There was a mining claim by the Goldsworthys, which, it appears, was not bought when the other mining claims were. I know of no other claim or lien?

20 x-q. Has the company paid any one for this land?

Ans. It has not paid any one so far as I know.

21 x-q. Has Col. Jones been paid for the land?

Ans. Yes sir.

22 x-q. How much has he been paid?

Ans. He has been paid thirty thousand dollars in money, less commissions of four thousand dollars paid to Buttrick and Hill. I have an account stated of the matter from Buttrick and Hill.

23 x-q. Who paid this thirty thousand dollars, less commissions?

Ans. The payments were made by Buttrick and Hill's drafts on Matthew Bolles in favor of Mr. Jones.

24 x-q. Were they paid from funds held by officers of the company?

Ans. They were paid from funds held by Matthew Bolles as the agent and broker of Buttrick and Hill.

25 x-q. Were Bolles, Buttrick and Hill officers of the company at the time when said drafts were drawn and paid?

135 Ans. Yes, sir.

26 x-q. From whom did you first learn that the property had not been paid for?

(This question is objected to by the complainant's solicitor as assuming a fact which has not been proved. James C. Davis, examiner.)

Ans. From Mr. Bolles and Dr. Olmstead.

27 x-q. When did Mr. Bolles tell you?

Ans. In the latter of February or in March, 1866, as near as I can remember. I am not impressed with anything previous to that.

28 x-q. Give me the substance of Mr. Bolles's conversation with you at that time.

Ans. He said that things had come to such a pass that Buttrick and Hill had come to him and had made the confession that their statement made at the meeting that the land was all paid for was not true in fact. In one sense it was true, because they had promised 25,000 shares of stock in the company to Col. Jones to secure the payment of the money due him; but nothing had actually been paid.

Mr. Bolles said, on learning this fact, it made him sick at heart, and he felt as though he should sink into the ground, as many of his friends had subscribed and paid in their subscriptions. Buttrick and Hill said they would immediately place in his (Mr. Bolles's) hands enough of their shares, which he could place upon the market and thus get funds to pay Col. Jones for the land.

29 x-q. Did Buttrick and Hill place shares in the hands of Mr. Bolles to get funds to pay Col. Jones?

Ans. I so understand.

30 x-q. To what amount?

Ans. I know nothing except what Mr. Bolles tells me. The funds drawn for by Buttrick and Hill in favor of D. W. Jones came into Mr. Bolles's hands from the proceeds of the sale of shares in the Mineral Point Mining Co., put in his hands by Buttrick and Hill. I do not know what number of shares was put in his hands for this purpose by Buttrick and Hill.

31 x-q. Has the company, or any one of its officers, com-
136 menced suit against Buttrick and Hill to perfect the title to said property?

Ans. Not to my knowledge.

32 x-q. Are you a party to this suit?

Ans. The suit was commenced without my knowledge. I don't know that I am a party to it.

33 x-q. At the meeting at Mr. Bolles's house did you say anything commendatory of Col. Buttrick?

Ans. I inquired of Col. Buttrick what his former law firm was. He stated. I then told him in the hearing of others, I think, that I was recommended to that firm as one of the first law firms in Milwaukee some time ago. That was all I said.

Direct examination resumed.

I wish to correct my answer heretofore made to the 23d question put to me in cross-examination. I find on referring to the account referred to by me in my answer to the 22d question put me in cross-examination, that the first payment made to Col. Jones for the land, amounting to five thousand dollars, was made by Mr. Hill, and four other small cash payments, amounting to ($179) one hundred and seventy-nine dollars in the aggregate, were made to Col. Jones by Messrs. Buttrick and Hill.

Cross-examination resumed.

34 x-q. By that account how much has been paid in all to Col. Jones.

Ans. Twenty-six thousand dollars in cash.

Direct examination again resumed.

3 q. State whether any but cash payments are mentioned in this account.

Ans. Nothing else but commissions. Buttrick and Hill charge four

thousand dollars for commissions for negotiating the sale of the property in this account.

H. S. CHASE.

137 *Defendant's testimony.—Witnesses examined on behalf of the respondent, David W. Jones.—Deposition of G. G. Wilder.*

George G. Wilder; I live in Boston. I am a merchant. My office is at No. 60 Water st., cor. Congress and Water sts., Boston. My age is fifty-four years. I know Mr. Bolles, the complainant, and I have seen Mr. Jones, the respondent. I saw him two or three times in 1865, but I do not think I should know him if I met him now. I am a stockholder in the Mineral Point Mining Co. I first became a stockholder in May, 1865, or possibly the last of April, 1865. I have never seen the agreement marked B, a copy of which is annexed to the complainant's bill. I have never seen any of the writings of the Mineral Point Mining Co. with Mr. Jones, if they have any, to examine them. (All the testimony of this witness which follows, from the words, "The only writing of theirs" to the conclusion of his testimony in-chief, is objected to by the complainant's solicitor as incompetent and irrelevant. James C. Davis, examiner.) The only writing of theirs of which I have any knowledge was what I supposed to be a bond executed, I think, by Col. Jones to the Mineral Point Mining Company. I never read that, I think, or a copy of it. Mr. Gaylord brought a copy from Mineral Point or from the registry of the county in which Mineral Point is situated. Mr. Gaylord was in my employ and I sent him out there to ascertain about the condition of the property. Edward J. Hill, of Milwaukee, had called upon me in April or May, 1865, to induce me to take stock in the Mineral Point Mining Company, and he set forth its advantages, prospects, and condition, and I purchased stock to a large amount. I sent out Mr. Gaylord in August or the last of July, 1865, to ascertain the condition of the property, and if it was all as it had
138 been represented. I think Mr. Gaylord made inquiries of Buttrick and Hill as to the title, and was told by them that it was all as it had been represented, but that he found out at the registry that this bond was recorded there, and he got a copy of it, and brought it or sent it to me. I bought my stock entirely upon the representations of Mr. Hill, in the first place. I subscribed for fifteen thousand shares. I subscribed first for seven thousand and subsequently, a few weeks afterward for eight thousand shares. It may be that I subscribed for the eight thousand first and for the seven thousand subsequently. Afterwards Mr. Hill gave me ten thousand additional shares. The whole number of the shares of the company was (100,000) one hundred thousand. My stock is now all disposed of except forty-five hundred shares, and those are now pledged as collateral security. I first disposed of shares in the fall of 1865, quite early in the fall, I should think, perhaps in September. I disposed of shares there to different persons, in different lots. I do not know of any incumbrance upon the property of the Mineral Point

Mining Company. I have never known of any excepting what I have spoken of, viz, the bond which Jones was said to have given to the company. I do not know that I know of any claim against the company, unless that bond is construed as a claim. The copy of the bond was brought or sent to me in August, 1865, I think. I received nothing else from Mr. Gaylord in relation to incumbrances on the property. I do not know the contents of the bond. I do not know whether it was or was not a mortgage in effect. I do not know who the parties to it were. I don't think I ever had any conversation with Jones in relation to incumbrances on the property. I am not sure that the subject did not come up while he was here.

Cross-examination.

By W. G. Colburn, esq., for the complainant:

1 x-q. Were you present at a meeting at the house of M. Bolles, in the latter part of November or the first of December, 1865?

Ans. I was not.

139 2 x-q. Did Mr. Whittemore ever come to your office to examine the bond of which you speak in your direct examination? and if so, when?

Ans. I have no recollection that he ever did.

3 x-q. Please state whether Buttrick and Hill, or either of them, in the presence and hearing of Col. Jones, ever represented that the property was unincumbered and the title perfect.

Ans. They did, both of them, at the Parker House. Col. Jones also made a statement in which he confirmed that impression to all who were present.

4 x-q. Was that meeting at the Parker House held in order to induce persons in Boston to take stock in the Mineral Point Mining Co.?

(This question is objected to by the solicitor to the defendant, D. W. Jones, James C. Davis, examiner.)

Ans. It was.

5 x-q. About what time was this meeting held, and who were present? State as nearly as you can recollect.

Ans. I cannot state accurately. It was quite the last of 1865. My impression is it was in December, 1865. There were perhaps twenty persons present, among them were Mr. Buttrick, Mr. Hill, Col. Jones, a Mr. Strong, from Mineral Point or that neighborhood. Mr. Whittemore, Mr. Gaylord, Mr. Bolles, a broker. I think also Mr. W. P. B. Brooks. I don't know that I remember any other names. They came to hear a statement of these gentlemen as to the value of the property and its desirableness as an investment.

6 x-q. Do you mean by the Parker House the hotel of that name in Boston.

Ans. Yes. In School street.

Direct examination resumed.

I do not remember whether Mr. Chase was present at this meeting. My impression is that he was.

GEO. G. WILDER.

140 *Deposition of C. A. Gaylord.*

Charles A. Gaylord; I reside at Hyde Park near Boston, in Massachusetts. I am not at present in business. I am thirty-seven years of age. The copy of an agreement annexed to the complainant's bill and marked B, reads like an original agreement which I have seen on file in Wisconsin in the register's office for the county, (Iowa county I believe,) in which Mineral Point is situated. I first saw that original agreement in the month of August, 1865. I had been sent by Mr. Wilder to Mineral Point to examine the mines, and see what they were doing out there. I was sent to look after any interests of his that might appertain to the mines. The title may have been one of the items of what I was to look after. My impression is that it was. I had a copy of this original agreement made and forwarded to me at Chicago, and I brought it with me to Boston. I delivered it to Mr. Wilder here, somewhere above the 20th of August, 1865. It was on my return. I don't think I delivered any other papers to him, except a balance sheet from the books of the company.

1 q. Did you have any conversation with Col. Jones at Mineral Point?

(This question is objected to as incompetent by the complainant's solicitor. James C. Davis, examiner.)

Ans. I did.

2 q. What was the substance of it?

(This question is objected to as incompetent by the complainant's solicitor. James C. Davis, examiner.)

Ans. It was a general conversation relative to the value of the mine. I inquired of him if he had received the pay for the property—(I found that he had owned the property)—He replied to me that he had not received the pay for the property; and at that time he spoke of the existence of this agreement.

3 q. At the time of your return to Boston in 1865, did you tell others that there were incumbrances on the property?

(This question is objected to as irrelevant and incompetent by the complainant's solicitor. James C. Davis, examiner.)

141 Ans. I told Mr. Wilder of the existence of this agreement. I owned stock in the company in the latter part of 1865, I think, but not until after my return from the West.

Cross-examination.

By W. G. Colborn, esq., for the complainant;

1 x-q. Were you present at a meeting at the house of Mr. Bolles in the latter part of November or the first of December, 1865?

Ans. No, sir.

2 x-q. Please state whether Buttrick and Hill, or either of them, in the presence and hearing of Col. Jones, ever represented that the property was unincumbered and the title perfect.

(This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. I don't think they did, sir, in the presence of Col. Jones—not in my hearing—at Mineral Point.

3 x-q. Were you present at a meeting at the Parker House in Boston in the latter part of 1865?

Ans. I was present at one meeting at the Parker House in the latter part of 1865.

4 x-q. Were not Buttrick and Hill and Col. Jones present at that meeting?

Ans. Yes, I think they were.

5 x-q. Did not Buttrick and Hill, or either of them, represent at that meeting that the property was unincumbered and fully paid for, or make statements to that effect?

(This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. My impression is that they did make such statements at that meeting at the Parker House.

6 x-q. Did not Col. Jones, the defendant, at said meeting at the Parker House, assent to or confirm such statements of Buttrick and Hill?

(This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. Not to my knowledge.

7 x-q. Did Col. Jones at that time make any statements contradictory to the statements of Buttrick and Hill?

142 (This question is objected to by the solicitor for the defendant, D. W. Jones. James C. Davis, examiner.)

Ans. I should not think he contradicted them. His statements were mainly relative to the value of the property.

Direct examination resumed.

The general subject of conversation at that meeting was the value of the property as a mining investment, as I understood it. I left before the meeting was concluded.

CHARLES A. GAYLORD.

In the Circuit Court of the United States for the seventh circuit and district of Wisconsin.

MATTHEW BOLLES
vs.
DAVID W. JONES *& al.* } In equity.

I, James C. Davis, of Boston, in the county of Suffolk and commonwealth of Massachusetts, having been appointed by said court an examiner to take the testimony of witnesses to be examined orally in

the above-entitled cause in the said city of Boston, hereby certify that on Monday, the 1st day of July instant, the complainant in the above-entitled cause appeared before me at my office at No. 30 Court street, in said Boston, by William G. Colburn, esquire, counsellor at law, but that neither of the respondents in said cause appeared on that day before me, either personally or by counsel, and that no testimony was taken by me on that day; that on Friday, the 5th day of July instant, at 3½ o'clock in the afternoon, said complainant again appeared before me at my said office by said William G. Colburn, esquire, and the said David W. Jones, personally, and the respondent, the Mineral Point Mining Company, by John S. Abbott, esquire, counsellor-at-law, also appeared before me at the same time and place, and it was then determined by me and agreed by said complainant and respondents that the taking of the testimony of the witnesses to be examined by me should commence on Saturday
143 the 6th day of July instant, at 10 o'clock, a. m., at my said office; that at said last mentioned time and place the complainant, by said William G. Colburn, esquire, the respondent, David W. Jones, personally, and by Edwin M. Chamberlain, esquire, counsellor-at-law, and the respondent, the Mineral Point Mining Company, by said John S. Abbott, esquire, again appeared before me, and the taking of said testimony was then and there commenced and was continued at my said office on said last mentioned day, and by adjournment upon the 8th, 9th, 10th, 11th, 12th and 16th days of July instant, and was completed on said 16th day of July; that the following witnesses were examined on behalf of the complainant, viz: on the 6th instant, John M. Whittemore; on the 8th and 11th instant, Matthew Bolles; on the 9th instant, Michael S. Bolles; on the 10th instant, John W. Olmstead; and on the 12th instant, Hezekiah S. Chase; and that the following witnesses were examined on behalf of the respondent, David W. Jones, viz: on the 16th instant, George G. Wilder and Charles A. Gaylord; that each and every one of all the above named witnesses was, before being examined, sworn by me to testify the truth, the whole truth and nothing but the truth relating to the above-entitled cause, and was thereupon fully examined before me, in order, as appears in the depositions hereto annexed; all of the parties to the above-entitled cause being present by their respective counsel hereinbefore named, and said counsel being permitted to examine, cross-examine and re-examine all said witnesses; and gave his deposition, which was taken down by me in writing; that each and every one of said depositions when completed was read over by me to the witness by whom it had been given, and was signed by him in the presence of all the above-named counsel of the parties to the above-entitled cause; that all questions which were objected to in the examination of said witnesses were so noted by me upon the respective depositions; and that all said depositions are hereto annexed. I further certify that before taking any of said testimony, I was furnished with a copy of the bill and answers in the above-entitled cause.

Dated at Boston aforesaid, the twenty-ninth day of July, in the year of our Lord eighteen hundred and sixty-seven.

JAMES C. DAVIS, *Examiner.*

Fees, $61 96.

144 Circuit Court of the United States in and for the district of Wisconsin.

Depositions of witnesses produced, sworn and examined in the above-entitled cause, on the part of the defendant, David W. Jones, and the complainant, M. Bolles.

MATHEW BOLLES
vs.
DAVID W. JONES AND THE MINERAL POINT MINING COMPANY.

AUGUST 12TH, 1867.

The parties, by their respective counsel, met in the examiner's office, at which time, with the consent of the attorneys for the respective parties herein, the commencement of the examination in the above-entitled cause was postponed until to morrow the 13th instant.

AUGUST 13TH, 1867.

The parties, by their respective counsel, met in the examiner's office, at which time the following proceedings were had:

Deposition of D. W. Jones.

David W. Jones, a witness produced, sworn and examined on the part and behalf of the defendant, D. W. Jones, says: I am one of the defendants in this cause.

Interrogatory. When and where did you first form the acquaintance of the complainant, Matthew Bolles?

I was introduced to him in the city of Boston, Massachusetts, about the last of November, 1865, at the house of Dr. Olmstead, one of the stockholders of the Mineral Point Mining Company.

What business transactions had heretofore taken place between you and the Mineral Point Mining Company? State fully.

From the time of their organization as a company they were lessees upon the mineral ground situate upon section No. 1, town 4, range 2 east, in Iowa county, and State of Wisconsin. The ground at that time belonged to me, and they had a verbal lease from me to mine and dig for minerals on a portion of the same, for which they agreed

145 to pay the one clear tenth of all ores and minerals raised by them upon said ground. They continued to work and mine upon the same until the execution of the indenture, a copy of which is attached to the copy of complainant's bill of complaint, served on me and marked exhibit "B." They promised from time to time to pay me the rents while working under the verbal lease,

and one time paid me I think $50. On or about the 27th day of April, 1865, I agreed to and did sell to the Mineral Point Mining Company the lands described in the indenture, marked exhibit "A" in the complainant's bill of complaint. The amount agreed to be paid to me by said company was $30,000. Simultaneously with the execution of the deed of conveyance of said lands, the company executed and delivered to me the contract and article of agreement heretofore referred to by me, and exchange of papers were made at that time. I was to receive all the rents, issues and profits from the balance of the ground except the range which they were then working upon, and retain possession of the whole of the ground the same as if no conveyance had been made, and receive one tenth of all minerals raised from the range which they were then working upon until the full consideration was paid; and I actually retained possession of all the balance of the ground except said range, cultivated a portion and let for mining purposes a portion to other parties up to January 29th, 1866, when I received two drafts from the then treasurer of the company, which he assured me would be promptly paid. One of said drafts was for the sum of $10,000 payable at sight, and one for the sum of $5,000 payable at thirty days. The then treasurer was E. L. Buttrick, of the firm of Buttrick & Hill, or at least he claimed to be. At the time that I received the two drafts aforesaid, Mr. Buttrick assured me the balance remaining due and unpaid should be paid within a few days; the balance was about $10,000 of principal, besides the rents. Relying upon said promise I agreed to and did give them up possession of the whole of the ground. Sometime in November, 1865, Col. Buttrick, then calling himself treasurer of said company, called on me at Mineral Point, Wisconsin, and said that he had just received a telegram from E. J. Hill, then at Boston, Mass., requesting him, Buttrick, to come immediately to Boston, and to bring me with
146 him at the expense of the Mineral Point Mining Company. He assured me that if I would go I should have the money then due me. Nothing then had been paid me. I told him that I could not conveniently go to Boston, and could not see what good I could do them by going, as I was an entire stranger there, never having been in Boston. On the same day Joel C. Squires, then the president of said company, made a similar request that I would start the next morning to Boston, at the expense of the company. I made the same reply to him that I did to Col. Buttrick, remarking at the same time that I had no confidence in getting my money from Mr. Hill or the company, for I had been so often deceived by them, and suggested and demanded of him a reconveyance of the property under the article of agreement hereinbefore referred to. He replied that he wanted for me to go to Boston at the expense of the company; that the company still had until the first of the next month (Dec'r, '65,) within which to pay the money under said contract. He declined making a conveyance at that time, but said if I would go to Boston and did not succeed in getting my money that he would then agree to make the reconveyance. Under these assurances from the president and treasurer, and in consideration of Mr. Hill, who was

Dated at Boston aforesaid, the twenty-ninth day of July, in the year of our Lord eighteen hundred and sixty-seven.

JAMES C. DAVIS, *Examiner.*

Fees, $61 96.

144 Circuit Court of the United States in and for the district of Wisconsin.

Depositions of witnesses produced, sworn and examined in the above-entitled cause, on the part of the defendant, David W. Jones, and the complainant, M. Bolles.

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David W. Jones, a witness produced, sworn and examined on the part and behalf of the defendant, D. W. Jones, says: I am one of the defendants in this cause.

Interrogatory. When and where did you first form the acquaintance of the complainant, Matthew Bolles?

I was introduced to him in the city of Boston, Massachusetts, about the last of November, 1865, at the house of Dr. Olmstead, one of the stockholders of the Mineral Point Mining Company.

What business transactions had heretofore taken place between you and the Mineral Point Mining Company? State fully.

From the time of their organization as a company they were lessees upon the mineral ground situate upon section No. 1, town 4, range 2 east, in Iowa county, and State of Wisconsin. The ground at that time belonged to me, and they had a verbal lease from me to mine and dig for minerals on a portion of the same, for which they agreed to pay the one clear tenth of all ores and minerals raised by
145 them upon said ground. They continued to work and mine upon the same until the execution of the indenture, a copy of which is attached to the copy of complainant's bill of complaint, served on me and marked exhibit "B." They promised from time to time to pay me the rents while working under the verbal lease,

and one time paid me I think $50. On or about the 27th day of April, 1865, I agreed to and did sell to the Mineral Point Mining Company the lands described in the indenture, marked exhibit "A" in the complainant's bill of complaint. The amount agreed to be paid to me by said company was $30,000. Simultaneously with the execution of the deed of conveyance of said lands, the company executed and delivered to me the contract and article of agreement heretofore referred to by me, and exchange of papers were made at that time. I was to receive all the rents, issues and profits from the balance of the ground except the range which they were then working upon, and retain possession of the whole of the ground the same as if no conveyance had been made, and receive one tenth of all minerals raised from the range which they were then working upon until the full consideration was paid; and I actually retained possession of all the balance of the ground except said range, cultivated a portion and let for mining purposes a portion to other parties up to January 29th, 1866, when I received two drafts from the then treasurer of the company, which he assured me would be promptly paid. One of said drafts was for the sum of $10,000 payable at sight, and one for the sum of $5,000 payable at thirty days. The then treasurer was E. L. Buttrick, of the firm of Buttrick & Hill, or at least he claimed to be. At the time that I received the two drafts aforesaid, Mr. Buttrick assured me the balance remaining due and unpaid should be paid within a few days; the balance was about $10,000 of principal, besides the rents. Relying upon said promise I agreed to and did give them up possession of the whole of the ground. Sometime in November, 1865, Col. Buttrick, then calling himself treasurer of said company, called on me at Mineral Point, Wisconsin, and said that he had just received a telegram from E. J. Hill, then at Boston, Mass., requesting him, Buttrick, to come immediately to Boston, and to bring me with
146 him at the expense of the Mineral Point Mining Company. He assured me that if I would go I should have the money then due me. Nothing then had been paid me. I told him that I could not conveniently go to Boston, and could not see what good I could do them by going, as I was an entire stranger there, never having been in Boston. On the same day Joel C. Squires, then the president of said company, made a similar request that I would start the next morning to Boston, at the expense of the company. I made the same reply to him that I did to Col. Buttrick, remarking at the same time that I had no confidence in getting my money from Mr. Hill or the company, for I had been so often deceived by them, and suggested and demanded of him a reconveyance of the property under the article of agreement hereinbefore referred to. He replied that he wanted for me to go to Boston at the expense of the company; that the company still had until the first of the next month (Dec'r, '65,) within which to pay the money under said contract. He declined making a conveyance at that time, but said if I would go to Boston and did not succeed in getting my money that he would then agree to make the reconveyance. Under these assurances from the president and treasurer, and in consideration of Mr. Hill, who was

then secretary of the company, having telegraphed for me to come to Boston, as stated by Messrs. Buttrick and Squires, I agreed to go, and the next day started to Boston in company with Col. Buttrick who paid my fare from Mineral Point to Boston. When we arrived at Boston we were met at the depot by Mr. E. J. Hill and J. M. Whittemore. Mr. Whittemore was then one of the stockholders of said company, as I was then told and believed to be the fact, and that he was about being elected treasurer of said company, as I was informed by Mr. Hill. I remained in Boston several days without receiving any money for the land. I intimated my anxiety to return home, and wanted my money or land before starting. Mr. Hill, and I think also Mr. Buttrick, requested me to have a little patience, that I should have my money within a few days; that they had found some difficulty in disposing of the stock, but that they and the other stockholders in Boston had gotten things in such a shape that they would soon succeed in not only selling enough to pay me, but have a
147 surplus sufficient with which to build a zinc furnace. About this time I was invited to go to the house of the Rev. Dr. Olmstead, where, as I was informed, Dr. Olmstead was to introduce to Messrs. Buttrick and Hill a broker who was to assist Dr. Olmstead and Messrs. Buttrick and Hill in selling stock of said company. Having no business, I went with Messrs. Buttrick and Hill as invited. I was introduced for the first time to the complainant that evening at the house of Dr. Olmstead. After the usual salutations and introduction I had no further talk of any kind or character with said complainant. He, together with Messrs. Buttrick and Hill, occupied the extreme end of a long double parlor, while Dr. Olmstead and I occupied the opposite end. Said complainant and Messrs. Buttrick and Hill had a long and earnest conversation while we all continned in the room and up to the time of leaving. I know nothing of the nature of the conversation, not having heard any part of it, except as I was informed the same night after leaving by Mr. Hill; he informed me that he (Hill) and Col. Buttrick had agreed to pay to said complainant $10,000 of stock in the Mineral Point Mining Company for assisting in selling the stock of the company, and that I should now soon have my money, and might return home as soon as I pleased, for that he, complainant, and Dr. Olmstead, being both leaders in the Baptist church, would skin the whole church of New England but that they would get the money. Some nights after this I was invited to a meeting at the house of complainant. There were assembled in his house a large number of men, upon the invitation of complainant, as I was informed. Messrs. Buttrick and Hill, Mr. M. M. Strong and myself spoke of the character and value of the ground as mineral land. Mr. Strong and myself was invited to do so, and complainant spoke very enthusiastically both of the land, furnace and other property of the company. Sometime during the evening Mr. Chase—I did not then know whether he was a stockholder or not—asked me in a very abrupt manner, without any previous conversation with him, "How much did you get from the company for your lands?" alluding to the land I sold the company. I did not understand whether he meant the purchase-

money or the rents received from the company. I asked him, "What did you say, Mr. Chase?" He repeated the same question so
148 that I understood that he alluded to the principal or price of the property. I replied, "The price agreed upon was $30,000. Shortly after this, during the same evening, he asked me, "What have you done with all the money you have received out there?" I hesitated to reply, recollecting the Yankee prerogative, and being for the first time in Boston, and supposing that he alluded to the large amount received by me from the Doud and McGinnis diggins, as stated by Mr. Strong and myself previous to this on the same evening, I replied, "A part of it I have invested well, and a part of it I have either lost or might have done better with." The reason why I supposed Mr. Chase in his question alluded to money I had received from the Doud and McGinnis lead was, I and Mr. Strong had previously, in giving our estimate of the value of the Mineral Point Mining Company lands, had stated to the gentlemen there present that I had, in exchange for forty acres of this land now belonging to the company, conveyed the tract of land upon which the Doud and McGinnis lead was situate, in La Fayette county, Wisconsin, and from which many millions of pounds of lead ore had been raised by myself and others. I never did state to Mr. Chase, nor to any other person, in terms, nor did I intend to convey the idea, that I had been paid by the Mineral Point Mining Company, or anybody else, any portion of the purchase-money of the lands by me contracted to be sold to the company. I did not at that time, do not now, and never have owned any stock in the Mineral Point Mining Company.

Interrogatory. What did you then consider, and what do you now consider, the value of the lands by you conveyed to the Mineral Point Mining Company, described in the complaint?

I considered then and do still consider them worth more than I have received in payment, and have offered to the company at different times, and last within a few days, say last month, to repay the whole amount by me received, if they would reconvey to me the property. This offer was made at a special meeting held in Boston; part of the directors and myself were present. There is still due me something over $4,000 of the principal, besides rents amounting to prob-
ably $6,000 or $7,000, the exact amount of which last I have
149 no means of ascertaining, except from their books and their officers. While in Boston at the house of Mr. Bolles, nor at any other place, did I present an abstract of title or title deeds for the consideration of any one. I had none with me to present. I did not go there for the purpose of selling my lands, but for the purpose of getting my pay, or the title back in myself. I saw no abstract presented there by any one, and did not hear of any being presented. A certified copy of the contract, marked exhibit "B" in the complainant's bill of complaint, was, and I presume still is, in the hands of one of the stockholders in Boston, to wit, Mr. Wilder; it had been there for several months previous to my going to Boston. E. J. Hill and Joel C. Squires, together with B. F. Thomas and Philip Branger,

constituted the company at the time the conveyance was made, and each gave their consent and approbation, and Joel C. Squires, as president, and E. J. Hill, as secretary, signed the article of agreement hereinbefore referred to. I never had any agreement with the Mineral Point Mining Company, or with any other person, that the consideration for the sale of the land to the company should be paid by Buttrick and Hill, or either of them, or by any other person except the Mineral Point Mining Company, through itself or agents. I never authorized Buttrick and Hill, or either of them, to act as my agent to collect what was owing me by the Mineral Point Mining Company, or any portion of it, or to act as my agents with regard to any other matter or thing. Sometime in January or the 1st of February, A. D. 1866, the complainant came here (Mineral Point); he staid only two or three days, I think. While here he said he must return immediately, in order that he should meet the draft at sight for $10,000, and make provision for the other. He also stated at that time that he understood fully the situation of my claim against the Mineral Point Mining Company; that he had sufficient securities in his hands to pay what was coming to me, but he wanted time to make the money out of the securities. The amount due me was spoken of. About the last of March, or sometime in the beginning of April, A. D. 1866, Mr. Bolles, the complainant, again came out here, and came to my house to see me, and I then explained to him fully the nature of my claim against the Mineral Point Mining Company, he then being the treasurer of the company. He stated that he fully understood it, but did not understand fully the articles of agreement between me and the company, and asked me to let him see it. I gave it to him and he took it with him to Boston; he kept it until I wrote for it; he must have kept it for 3 or 4 months. He apologized for the $10,000 not having been paid, and stated it should be as soon as he realized from the stock, and the balance due me should be paid in like manner as soon as he realized from the sale of the stock in his hands; that he had sufficient securities to pay the whole. Whatever I received from the Mineral Point Mining Company through the hands of Messrs. Buttrick and Hill, or either of them, I received upon the supposition that they were officers of the company and its acting agent. They had been instrumental in carrying out the organization of the company in managing its affairs. I sold the land to the company, they acting as its agent and being a part of the company, and I had been informed by the president that Col. Buttrick was the treasurer, and E. J. Hill the secretary of the company, and knew Hill to be the secretary from the fact that he signed the article of agreement as such. I frequently called upon the president of the company for the purpose of getting my money, and was referred by him to Messrs. Buttrick and Hill as the acting agents of the company.

(The complainant objects to all the above testimony relating to transactions between the defendant Jones and the mining company prior to the execution and delivery of the deeds and contract mentioned in said testimony, and to all the statements, declarations or ad-

missions of the complainant made subsequent to the date of the drafts, or to the receipt of the stock of the mining company, as irrelevant and incompetent.)

151 *Cross-examination.*

I left Mineral Point to go to Boston at the request of both Messrs. Buttrick and Squires. At that time there had been considerable stock of the Mineral Point Mining Company sold, as I was informed by Mr. Hill; the amount of stock sold I do not know, and have no means of ascertaining. The company was organized but a short time, I think, previous to the time I sold the land to it. Mr. Hill told me it was not thoroughly organized until he bought into it, which, I think, was but a short time previous to the date of the articles of agreement. The company had an office in Mineral Point at the date of the articles of agreement, at the banking-house of B. F. Thomas, where the exchange of the deed and the articles of agreement were made. After the execution of the deed Mr. Hill left Mineral Point, ostensibly for Boston, within a day or two after.

Did he (Mr. Hill) state to you for what purpose he was going to Boston?

He told me that he would send me $5,000 either from Milwaukee or Chicago within ten days, and as soon as he had done so he would go immediately on to Boston to sell stock of the company. He gave me no names that I recollect of parties in Boston to whom he expected to sell stock, except that he stated that George Wilder had suggested to him this plan, and had already taken an interest in the company. That he was a wealthy, influential man, and that he would have no difficulty, he thought, in disposing of the stock, him and Wilder together. He at that time expected to sell stock enough to purchase or erect a lead furnace and to erect a zinc furnace, and talked of starting a national bank, and to pay the consideration-money for the purchase of the land. I heard from Mr. Hill, after he reached Boston, frequently. I heard by letter from him. I have the letters received from Mr. Hill in my possession, or under my control. Prior to the request of Messrs. Buttrick and Squires for me to go to Boston, I had not received a single dollar of the consideration-money, but had frequently received assurances from them that I should have my money very soon. I had very frequently
152 complained to them that they did not pay me the money or reconvey to me the property, during the same time I corresponded with Mr. Hill, answering his letters. I never had been informed, prior to Mr. Buttrick's request, that it would be necessary for me to go to Boston. I did not know that it was necessary to go down there except either to get my money or a reconveyance of the property, because of Hill, the secretary of the company being in Boston. I stated in my direct examination that the first parties I saw when I got to Boston was Mr. Hill and Mr. Whittemore. On the day of my arrival in Boston, Hill assured me that things were going on swimmingly and would be able to pay me off in a few days; but

when I asked him for the money a few days afterwards, I found that he had but little on hand, or, at all events, he [he] did not pay me anything. I do not recollect that he stated to me what arrangements he had made to raise the money. At that time I understood him to say that he had sold considerable amount of the stock, but he would not receive the pay until the purchasers had received their dividends from factories in New England, or received money on the coupons from government bonds; and that he had received 7,000 acres of land in Wisconsin, Minnesota and Iowa for some stock. I do not recollect that he stated anything further to me on the day of my arrival in Boston. I was introduced to the complainant, Mr. Bolles, very soon after my arrival in Boston, at the house of Rev'd Dr. Olmsted. Mr. Buttrick, Hill, the complainant, Mr. Olmstead and myself were the only parties present that I recollect of, except, I think, there was another broker there for a short time. The interview was in the evening. Don't recollect how long I was in the house that evening. At that time nothing was said in my hearing about the sale of the stock of the company, except that Dr. Olmstead remarked to me during the evening that Messrs. Buttrick and Hill would probably succeed in getting Mr. Bolles to sell stock for the company; that he had recommended Mr. Bolles to them and them to Mr. Bolles. In
153 that conversation in that place nothing was said in my hearing in relation to the property of the company. At the meeting that evening nothing was said in my hearing, that I have any recollection of, concerning the company. Mr. Bolles asked no questions that evening, to my recollection. I did not talk with Mr. Bolles at all that evening after the usual salutation. I had no object or purpose in going to the house of Dr. Olmstead that evening, except that I was requested by Messrs. Buttrick and Hill to accompany them. They, nor either of them stated why they wished to accompany them, to my recollection. They stated that they expected Dr. Olmstead to introduce them to several gentlemen who would probably take an interest with them in the company. There were no papers or documents shown there that evening in my presence. I think I saw Mr. Bolles the next day, but I am not sure. The next time that I saw Mr. Bolles, except to pass the time of day with him, was at his house; I don't recollect the date; I think it was about the first of December; not sure. There were present at the house of Mr. Bolles that evening, that I recollect, Mr. M. M. Strong, Messrs. Buttrick and Hill, Mr. E. J. Cooper, Mr. Bolles, Mr. Whittemore, Mr. Chase, and probably a dozen others that I was introduced to that evening, but don't recollect their names, except Mr. Jones. Mr. Strong and myself went to the house of Mr. Bolles that evening at the request of Messrs. Buttrick and Hill. I understood from them that the meeting was called for the purpose of introducing to Messrs. Buttrick and Hill gentlemen who would probably take an interest in the Mineral Point Mining Company to enable them to carry out their project of erecting a zinc furnace and carrying on their mining and lead smelting operations. They also stated to Mr. Strong and myself that they wished us to state before those gentlemen the value of

the mineral ground and the other property belonging to the Mineral Point Mining Company. I made that statement that evening. I gave them my opinion of the ground, its character as mineral land, but placed no valuation in dollars and cents on the ground. My impression is that I described the furnace and barn of the com-
154 pany, upon request. It was stated there that evening that the land had been purchased from me, I think, by Mr. Strong and Messrs. Buttrick and Hill. I do not know that the deed of the land or a copy of it was exhibited there that evening. I heard Hill say that the company had a deed from me and my wife for the land. I was asked the question, "How much the company paid me for the land," and I replied that "the amount agreed upon was $30,000 00-100. I am quite positive that no one asked me whether I received the whole or any part of the purchase-money; if there did, I did not so understand them. Mr. Chase asked me the question before mentioned. I do not know whether the question was asked me before or after the statement had been made that the company held the deed from myself and wife. There was no organization of the meeting. I think that Col. Buttrick made the first remarks, and said that he wanted to procure aid to develope a very valuable lead and zinc mine in Wisconsin and to erect a zinc furnace. He then described the property belonging to the Mineral Point Mining Company, and, I thought, colored it pretty high; but acknowledged their inability to carry out their projects without some assistance from Boston or somewhere else. Mr. Strong or myself spoke after him. Either Mr. Hill or Mr. Bolles spoke last, according to my recollection. I don't know that I made any correction or denial of any statement that was made by either Mr. Buttrick or Hill there that evening, but I did the next morning, after I understood the nature of Mr. Hill's remarks of the night previous. I understood the next morning that Mr. Hill, in his statement the previous evening, represented that the company had a perfect title to the land, unincumbered. I then stated to Mr. Whittemore the nature of the incumbrances upon the property, and referred him to the contract. There was no plan agreed upon in my presence; no person subscribed to any stock in my presence; I don't know that any persons agreed to take stock. According to the best of my rec-
155 ollection, the sum of $5,000 00-100 was paid me by the secretary of the company, E. J. Hill, on the 9th day of December, 1865; that was the first money received by me after that meeting, and the first that I received at all. The whole consideration of the principal sum of the purchase-money has been paid me, except a little over $4,000 00-100. I at one time offered Mr. Hill the sum of $4,000 00-100 for selling my land for $30,000 00-100, or, in other words, if he paid me $26,000 00-100 in time for me to go the overland route to Arizonia in the spring of 1865.

Further direct examination.

Mr. Hill did not pay me the $26,000 00-100 in time for me to go the overland route to Arizonia in the spring of 1865, or at any other

time, and acknowledged his inability to do it. And when I sold to the company it was agreed between Hill and me, and perfectly understood, that he should have no claim against me for commission or assistance in selling the land, but that I should have from the company $30,000 00-100, and he should make what he could by the purchase by any arrangement that he could make with the company. At the meeting at the house of complainant, I did not hear Mr. Hill state or represent that I had been paid the purchase-price for the lands which I had sold to the company, neither did I hear Col. Buttrick or any other person make such statement, and consequently did not feel myself called upon to contradict any statements. I applied to Mr. Bolles, the treasurer of the company, first through their agent, Mr. E. J. Cooper, and subsequently by letter addressed to Mr. Bolles himself urging the payment of the balance then due me, amounting to $10,000 00-100. He replied that, in order to keep his accounts correctly, I should get a [a] draft of Messrs. Buttrick and Hill, and then I should receive my money. I replied to this that I had been informed by Mr. Hill that Buttrick and Hill had ceased to be officers of the company; that I had no claims against them except as officers
156 of the company; that the money was due me from the Mineral Point Mining Company; if it was necessary for him to have a draft or voucher from Messrs. Buttrick and Hill, that one or both of them was then in Boston and he could procure them himself. Shortly after this I received a letter from Boston from E. J. Hill, enclosing a draft for $5,821 00-100.

Further cross-examination.

I received by mail from E. J. Hill the account herewith exhibited to me a copy of which is hereto attached, marked exhibit "A," and which I presume was sent to me some time in the year 1866, prior to the commencement of the suit.

(To the introduction of which exhibit defendant Jones, by his solicitor, objected.)

D. W. JONES.

Subscribed and sworn to before me this 20th day of August, A. D. 1867.

CYRUS LANYON,
U. S. Circuit Court Commissioner and Special Examiner.

Adjourned by consent to to-morrow, the 14th inst., at the same place.

AUGUST 14TH, 1867.

The parties appeared by their counsel respectively as before.

Deposition of E. J. Cooper.

Eustace J. Cooper, a witness produced, sworn and examined on the part and behalf of the complainant, says:

My name is Eustace J. Cooper; reside in Mineral Point, Iowa

county and State of Wisconsin. I know the complainant in this suit, Mathew Bolles, well; he resides in Boston, Mass. I know the defendant, David W. Jones. I recollect of a meeting of several parties which was held at the house of Mr. Bolles, in Boston, some time in November or December, 1866. The defendant, Jones, was present at that meeting, and also Messrs. Buttrick and Hill; I believe Mr. M. M. Strong also. There was more than one meeting at Mr. Bolles' house. The first meeting that we had of all was at the Parker House; that is my impression. I recollect of a meeting held at
157 the house of Mr. Bolles at which all the gentlemen above named were present, in which the question of the property of the Mineral Point Mining Company was discussed, or talked about. There were also other parties, and quite a number of other parties, present at the meeting that evening; I was among the number. It was stated by both Messrs. Buttrick and Hill, and by Mr. Hill particularly, that the Mineral Point Mining Company owned the land on which they were mining. He spoke of paying $30,000 00 for the fee of the land, and, I think, $90,000 for the mining right; he stated that the company had obtained the fee to the land from David W. Jones, the defendant. He merely spoke about their having the fee of the land. As far as I can recollect, he stated that the consideration for the land had been paid. He did not say anything about how it was to be paid for. I inferred from what he said that it had been paid for. He did not mention anything about any incumbrances upon the property, or any contract connected with the property. His statements were that the company owned the property and that the company could do what they pleased with it, giving details of what could be made out of the mine. Mr. Jones, the defendant, was present while Mr. Hill was speaking. Mr. Jones did not say anything on these points in reply to Mr. Hill in the meeting on that occasion. Mr. Jones did not, in my hearing, correct or deny any statement made by Mr. Hill. I remember of only one question being propounded to Mr. Jones that evening, and that was propounded by Mr. H. S. Chase; it was, "Col., have you your money for the land?" He put the emphasis on the "your." He broke right into the conversation with the question. Hill did not stop talking, but went right along, and Jones replied that "he had, but wished he had not, because he had put it where he did not consider it as safe as it was before." At the time this answer was made I was within about ten feet of him. Mr. Bolles invited me to be present there that evening. I subsequently became a stockholder in the Mineral Point
158 Mining Company. Prior to my becoming a stockholder in the Mineral Point Mining Company, I had no knowledge whatever of an outstanding contract to Mr. Jones upon the land purchased from him by the company. I never heard of the agreement until after I got out to Mineral Point, which was some three months, or thereabouts, after I became a stockholder. When Col. Jones brought a copy of it into the office of the company at Mineral Point, he wanted me to use my influence with the company to get the balance of the purchase-money, and showed me the contract as a rea-

son for me to use my influence with the company. I expressed surprise to Mr. Jones at the existence of such a contract, and Mr. Jones said that he presumed that I did not know it, but that others had known of its existence before. The company had not, to my knowledge, paid Mr. Hill the commission of $4,000. Mr. Jones, either at that time or at a subsequent time, told me he made an agreement with these damned scoundrels (speaking of Buttrick and Hill) that he should not put this agreement on record for some length of time; I do not know how long the time was; but that that he saw through them and did record it, or caused it to be recorded, but requested the register that he would not index it. I don't know that he assigned any reason for the making of the agreement with Buttrick and Hill not to put the contract on record.

(The whole of the above testimony, and each and every portion thereof, is objected to by defendant's solicitor.)

Cross-examined.

My impression is that the first meeting that we had of all, at which I was present, was at the Parker House. The next meeting was at the house of Mr. Bolles, I think. The second meeting may have been at the Parker House; we had two meetings at the Parker House; we also had two meetings at Mr. Bolles' house; whether consecutive meetings or not I will not be certain; and, I think, one at Mr. Chase's house, but may be mistaken as to that, as a good many meetings of the stockholders and directors was had at Mr. Chase's house.

159 I am general superintendent of the Mineral Point Mining Company. The office of the company is kept at Mineral Point, Wisconsin—superintendent and general business office—and the treasurer's office in the city of Boston. I have in my office, in Mineral Point, Wisconsin, some small memorandum books from which to make reports of the general business of the company. I make my reports to the office at Boston. I have been informed and suppose that the records of the company are in the office in Boston.

Adjourned by consent to the 19th day of August.

AUGUST 19TH, 1867.

Cross-examination of Mr. E. J. Cooper resumed.

There were several meetings held in Boston to take into consideration the taking of stock in the Mineral Point Mining Company; whether any of them were held before Col. Jones arrived in Boston, I don't recollect. I am pretty sure that Col. Jones was present at one meeting at the Parker House. There was nothing done at that meeting; that is, there was no stock subscribed for, and there was nothing done at any of the meetings, except to talk the matter over. There was no stock subscribed for at any of the meetings unless done without my knowledge. I did not subscribe for mine at any of the

meetings. I never heard Col. Jones say anything in Boston about having got his pay, except at the meeting held at Mr. Bolles' house, as near as I can remember. Mr. Hill was in one of the parlors; he was going on and making a general statement (he had done it two or three times before) of the general prospects of the Mineral Point Mining Company, the amount of minerals that could be raised, and how much could be broken by so many men in a day; multiply that by so much and there would be a certain result, making about 200 per cent. upon the investment, and that the money wonld be got back in one year. All present were considerably carried away by his statements. He went on and gave us a description of the property that we should own when we became subscribers. Spoke of the lands, stables, furnace, personal property, &c. It was old to me, having heard it several times before.

160 Col. Jones was standing near a mantle-piece, in a different room from Mr. Hill. Col. Jones, at the time, was examining some ornaments which were in the room where he was. During Mr. Hill's conversation, Mr. Chase, who was sitting near Col. Jones, turned around and said to Col. Jones, "Have you got your money for this land?" He said, "Yes; but I wish I had not, because I have put it where I don't consider it as safe as it was before." This was all that I remember hearing Col. Jones say upon the subject of having received his pay for the land. I never heard that Col. Jones had not received his pay for the land until I came to Mineral Point, which was about three or four months after the above meeting. Col. Jones came into the office of the Mineral Point Mining Company at Mineral Point, and told me that he had not received his pay in full. I could not swear that any proposition was made at that meeting, at Mr. Bolles's, that any specific amount of stock of the Mineral Point Mining Company should be subscribed for by Boston capitalists. The idea conveyed by Buttrick and Hill, upon different occasions, was for the Mineral Point Mining Company to dispose of 40,000 shares of the capital stock for the sum of $100,000 00-100, being $2 50 a share, which was to be used as a working capital for the company, and which was to constitute $\frac{2}{5}$ of the entire stock of the company. The company was organized upon a basis of $500,000 00-100 capital stock, divided into 100,000 shares of $5 00-100 each. The holders of that stock were to contribute to the company, to be appropriated by the company as a working capital, $\frac{2}{5}$ of the capital stock pro rata, the remaining $\frac{3}{5}$ remaining in the names of the stockholders to do with as they pleased. At that time I was in the office of Mathew Bolles as confidential clerk and dormant partner. I took 1,000 shares of stock in the company, and saw Mr. Bolles' name upon the books for 4,000 shares. I paid for the 1,000 shares that I subscribed for the sum of $2,500 00-100. I was present in Mr. Bolles's office when drafts were presented for acceptance, and payment given for the purpose of paying Col.

161 Jones. At the time I did not know what the drafts were for, but subsequently learned that they were to pay Col. Jones for the land. They were drawn on M. Bolles & Co., either by Buttrick

and Hill, or by E. J. Hill. There were two drafts that I recollect of, one for $10,000 00-100, and one for $5,000 00-100, which I accepted. I do not know the reason why those drafts were allowed to go to protest. Mr. Bolles, before starting for Mineral Point, told me, according to my recollection, that if drafts came drawn by Buttrick, as treasurer of the Mineral Point Mining Company, not to pay them; but if drawn individually by Buttrick and Hill, or either of them, I do not remember which, to accept. When Mr. Bolles got to Warren, Ills., he telegraphed to me not to pay anything. The dispatch came too late to prevent the acceptance. The drafts came through the hands of Cyrus Woodman and the Webster Bank. I went to Cyrus Woodman, and he told me that his instructions were not to protest, and he would not protest them, but they would go back. Mr. Bolles told me that Buttrick and Hill were to indemnify him for all costs and expenses of this suit, and that they would pay the expenses themselves. I got the impression from Col. Jones, I suppose in conversation with him, that Col. Jones had agreed not to put the contract upon record for 60 or 90 days. It was not to be put on record unless Hill failed to make some of the payments, or to pay for the land; that is to say, if they failed to come to their agreement, then Col. Jones was to put it on record. I do not know that Col. Jones stated so in so many words, but I got that impression. Col. Jones stated to me that if Buttrick and Hill had any claim against him, and would commence a suit against him, he would let his demand against the company rest until it should be determined whether Buttrick and Hill had any claim against him for commission in selling his lands to the Mineral Point Mining Company. He also proposed that if the company would pay him the balance due on the purchase-money he would indemnify them, and if Buttrick and Hill recovered of him for commission in selling the land he would
162 refund to the company the money. He would either give bonds, or put up the money as security to the company. I communicated this proposision to Mr. Bolles and the company. I told Hill in Mr. Whittemore's office, in the presence of Mr. Whittemore, one of the stockholders, and Dr. Olmstead, one of the directors and secretary of board of directors, that I should advise the company to pay Col. Jones the $4,000 00-100 in controversy, and attach Buttrick and Hill's stock. At the meeting at Mr. Bolles's house there was no abstract of title to the lands produced, to my knowledge.

E. J. COOPER.

Subscribed and sworn to before me this 20th day of August, 1867.

CYRUS LANYON,

U. S. Circuit Court Commissioner and Special Examiner.

Deposition of Joel C. Squires.

Joel C. Squires, a witness produced, sworn and examined on the part and behalf of the defendant, D. W. Jones, says:

My name is Joel C. Squires; I reside in Mineral Point, Iowa county,

and State of Wisconsin. I am acquainted with Mathew Bolles, the complainant in this cause, and also with the defendant, David W. Jones. I had a conversation with Mathew Bolles, the complainant, on different occasions. He told me that he had a large amount of stock of the Mineral Point Mining Company's in his hands for sale, standing in the name of Buttrick and Hill, agents; and he gave me to understand in his conversations that as soon as the matter was settled with Col. Jones he might, and probably would, be able to sell the stock. In the conversation Mr. Bolles intimated that it would be better for the company to settle with Col. Jones, and leave Buttrick and Hill to fight out their claim of $4,000 00-100 for commissions with Col. Jones. I was present at the time Col. Jones received two drafts, one for $10,000 and one for $5,000 00-100. They were received from Col. Buttrick, treasurer of the Mineral Point Mining Company. They were received by Col. Jones in the Mineral Point Mining Company's office in the city of Mineral Point.

163 I do not know that I ever saw any drafts signed by him as treasurer of the company. I think that he was not in the habit of signing drafts as treasurer. At this time I was president and superintendent of the company. I understood that the drafts were given to Col. Jones as part payment of the purchase-money for the lands of the company. The drafts were drawn from the draft-book of the company. That is my recollection. I know of no other reason for the drafts having been drawn on M. Bolles than that Mr. Bolles was the fiscal agent or broker for the company. The drafts above spoken of, one for $10,000 00-100 and one for $5,000 00-100, were drawn on M. Bolles, or M. Bolles & Co. At the time that Buttrick handed these two drafts to Col. Jones he remarked the balance would be forthcoming shortly. There should have been placed in the hands of the complainant, M. Bolles, 35,000 shares of the stock of the company, 25,000 having been set apart and appropriated by the company for the purchase of the land of Col. Jones, and 10,000 shares purchased by the company of B. F. Thomas, previously set apart and appropriated by the company to said Thomas for the purchase of his interest in the mining right belonging to said Thomas, Squires & Branger. I know from conversation with Buttrick, Hill and Bolles, that a large amount of the company's stock had been placed in Bolles's hands previous to the drawing of the drafts aforesaid; and it was against the proceeds of this stock that the drafts were drawn. I recollect the time that Col. Jones went to Boston. There was a telegraph dispatch received by Col. Buttrick requesting him to come to Boston, and to bring Col. Jones with him at the expense of the company. This was some time in November, 1865. There was nothing in the words of the dispatch indicating what Col. Jones was wanted for in Boston. I had a conversation with Col. Jones the next morning after the receipt of the dispatch, in which I urged him to go to Boston, and expressed the hope that he would receive his money there. Col. Jones asked me to make out a deed to reconvey to him the lands of the company, which I declined doing. During this time Mr. Hill was not only acting as secre-

164 tary, but was the actual secretary of the company, and acting as the agent of the company in selling stocks, &c. The nominal value of the stock set apart by the company to pay Col. Jones, was $125,000. From the first organization of the company up to the first day of Feb'y, 1866, I was president of the company, on which last-mentioned day I resigned. The Mineral Point Mining Company was organized as early as the forepart of March, 1865. There was a record made of the organization, of the election of the first directors, and of an election of the officers by those directors. These records were taken away from the company's office in Mineral Point, on the first day of Feb'y, 1866, by E. J. Hill, who was then acting secretary, and have never been returned to the office of the company since. Since my resignation as president, I remained superintendent of the company up to the first day of May, 1866, since which time I have been assistant superintendent until the first day of August, 1867. During all of those periods I have had access to all the books, papers and records remaining in the company's office in Mineral Point.

J. C. SQUIRES.

Subscribed and sworn to before me this 20th day of August, 1867.

CYRUS LANYON,

U. S. Circuit Court Commissioner and special examiner.

Adjourned until to-morrow the 20th inst.

AUGUST 20TH, 1867.

Each of the above-named witnesses appeared before the examiner at his office, and their testimony was read to each of them, respectively, and there each witness signed the evidence given by them after which he was duly sworn to the same.

165 UNITED STATES OF AMERICA, *District of Wisconsin*:

I Cyrus Lanyon, United States Circuit Court commissioner for the district of Wisconsin, and acting as examiner in the above entitled cause under and by virtue of the stipulation of the parties by their solicitors, do hereby certify, that the within and foregoing examination of the above named witnesses, commenced before me at my office, in the city of Mineral Point, State Wisconsin, on the 12th day of August, A. D. 1867, and continued from time to time until the 20th day of August, 1867; that the parties appeared by their respective solicitors, M. Finch, for complainant, and M. M. Cothren, for the defendant; that each witness was first sworn by me to testify the truth, the whole truth and nothing but the truth touching the matters in controvesy; that the questions were propounded to the witnesses orally, and the answers thereto were taken down by me in writing in narrative form; that after the examination of each witness was closed, his testimony was carefully read over to him, and was then signed by him; that the reason for taking said testimony, is that each of said witnesses resides more than one hundred miles from Milwaukee, the place of trial of said cause. And also because the

parties to said cause by their solicitors, stipulated that the said testimony should be taken before me.

Given under my hand this 20th day of August, A. D. 1867.

[SEAL.] CYRUS LANYON,

U. S. Circuit Court Commissioner and special examiner.

166 *Exhibit "A."—David W. Jones in ac. with Buttrick and Hill.*

		Dr.	Cr.
	By cash received of the Mineral Point Mining Company for 233 37-100 acres of land, conveyed by D. W. Jones and wife to said co. April 27, 1865.		$30,000 00
1865.	CONTRA.		
Oct.	To cash of M. P. M. Co. on ac. of Buttrick and Hill.....	$100 00	
Dec.	" cash paid C. F. Hony & Co. 8 yds. thibet 2 25-100, 18 00 8 " merino 1 37½, 11 00	29 00	
"	" cash of E. J. Hill, in Boston.	50 00	
"	" draft on 10th Nat'l Bank, N. Y. from Mt. Vernon Nat'l Bank, Boston, to order of E. J. Hill, endorsed to him	5,000 00	
1866.			
Jan'y 29.	" draft on M. Bolles & Co. at sight.....	10,000 00	
	" draft on M. Bolles & Co. at sight.....	5,000 00	
	" commissions selling land as per your letter of March 8, 1865.....	4,000 00	
1866.			
June 1.	" c'k on M. Bolles & Co. to bal.	5,821 00	
			$30,000 00

167 And now at this same term, to wit, September term, A. D. 1868, and on the fourth day thereof, to wit, on the seventeenth day of September, A. D. 1868, the following proceedings were had, to wit:

Decree.

MATTHEW BOLLES *vs.* DAVID W. JONES AND THE MINERAL POINT MINING COMPANY. } In equity.

This day came the parties by their counsel. And this cause having been heard upon the pleadings and proofs and argued by counsel, upon consideration thereof, it is ordered, adjudged and decreed by the court that the defendant, David W. Jones, be and hereby is per-

petually enjoined and restrained from bringing any action or actions against the said defendant, The Mineral Point Mining Company, to collect any part or portion of the purchase-money of the premises described in the bill of complaint, and in a certain article of agreement purporting to be executed by the Mineral Point Mining Company, party of the first part, and David W. Jones, party of the second part, and bearing date the twenty-seventh day of April, A. D. 1865, to wit: The northeast quarter and the northwest quarter of the southeast quarter, and also the following piece or parcel of the northeast quarter of the southeast quarter, to wit, commencing at the northeast corner of the northeast quarter of the southeast quarter of section number one, township number four, (4) range number two, (2) east, thence eighty rods west to the northwest corner of said tract, thence eighty rods south to the southwest corner, thence thirteen and one-half rods east, thence one hundred and five rods on a line parallel with the Galena road to the said northeast corner or place of beginning. All of the above described lands being in section
168 number one, in township number four, of range number two east, in the county of Iowa, and State of Wisconsin, and that the said defendant, David W. Jones, be and hereby is enjoined and restrained from bringing any action or actions against the Mineral Point Mining Company, to collect any mineral rent or for the value of any minerals taken from said premises.

And it is hereby further ordered and decreed that the said David W. Jones execute a full release and discharge of all claims and liens upon said described premises and property by reason of said article of agreement and of all claims against said Mineral Point Mining Company for the purchase-money of said premises and property and for the mineral rents, or for the value of the minerals taken by the Mineral Point Mining Company from said premises; and that said release be executed and acknowledged by the said David W. Jones in such form as to entitle it to record in the office of the register of deeds for Iowa county, in this State.

And it is further ordered that the said article of agreement is null and void; and that the defendant, the Mineral Point Mining Company, be perpetually enjoined and restrained from paying any money to said David W. Jones, his agents or assigns for the purchase-money of the premises described, as aforesaid, in the bill of complaint, and in the aforesaid article of agreement, or for any mineral rents or for the value of any minerals taken from said premises, or making any for payments upon said contract or article of agreement for purchase-money or for any other cause.

And it is further ordered, adjudged and decreed that the said defendants, David W. Jones, and the Mineral Point Mining Company, pay the costs of the suit and proceeding, to be taxed within ten days, or in default thereof that an execution be issued against them for the same.

A. G. MILLER.

Decree signed, recorded and enrolled September 17th, A.
169 D., 1868. EDWARD KURTZ, *Clerk.*

And the following, to wit, on the eighteenth day of said term,

to wit, on the ninth day of November, A. D. 1868, the following proceedings were had, to wit :.

Appeal.

MATTHEW BOLLES
vs.
DAVID W. JONES AND THE MINERAL Point Mining Company. } In equity.

This day came the defendant, David W. Jones, and prayed an appeal to the Supreme Court of the United States, and presented his bond with William T. Henry and John J. Ross as sureties, in the penalty of two hundred and fifty dollars, conditioned to prosecute his said appeal to effect, and answer all costs if he shall fail to make his appeal good, which bond is as follows :

Circuit Court of the United States for the District of Wisconsin.

Appeal bond.

MATTHEW BOLLES
vs.
DAVID W. JONES AND THE MINERAL Point Mining Company. } In equity.

Know all men by these presents, that we, David W. Jones, as principal, and William T. Henry and John J. Ross, of Mineral Point, Iowa county, Wisconsin, as sureties, are held and firmly bound unto Matthew Bolles, the above-named complainant, in the sum of two hundred and fifty dollars, to be paid to the said Matthew Bolles, his executors, administrators, or assigns, to which payment well and truly to be made we bind ourselves, and each of us and each of our heirs, executors, and administrators, firmly, by these presents, jointly and severally.

Sealed with our seals, and dated this 31st day of October, 170 A. D., 1868.

Whereas the above-named David W. Jones is about to prosecute an appeal to the Supreme Court of the United States from the decree entered in the said Circuit Court in the above-entitled cause, on the 18th day of September, A. D., 1868, to reverse the said decree:

Now therefore the condition of this obligation is such that if the above-named David W. Jones shall prosecute his said appeal to effect, and answer all costs, if he shall fail to make good his appeal or plea, then this obligation shall be void; otherwise to remain in full force, and virtue.

[SEAL.] D. W. JONES.
[SEAL.] WILLIAM HENRY.
[SEAL.] JOHN J. ROSS.

Sealed and delivered in presence of—
GEO. HENRY.

DISTRICT OF WISCONSIN, *Iowa county, ss :*

William T. Henry and John J. Ross, being duly sworn, each for

himself says that he is worth the sum of five hundred dollars over and above all his just debts and liabilities and property exempt from sale on execution.

[SEAL.] D. W. JONES.
WILLIAM T. HENRY.
JOHN J. ROSS.

Subscribed and sworn to before me this 5th day of November, A. D., 1868. GEO. HENRY,
Notary Public, Iowa county, Wisconsin.

Endorsed: Nov. 9, 1868. Approved by the court. A. G. Miller.

Whereupon it is ordered by the court that said appeal be allowed and citation issued.

171 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

I, Edward Kurz, clerk of the Circuit Court of the United States of America for the District of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate, and they are true copies of their respective originals, and are correct transcripts therefrom now on file, and remaining of record in my office, being a full and complete copy of the record and proceedings, in the suit of Matthew Bolles vs. David W. Jones and the Mineral Point Mining Company.

In testimony whereof, I have hereunto set my hand, and duly affixed the seal of the said court of the city of Milwaukee, in said district of Wisconsin, this seventh day of December, in the year of our Lord, one thousand eight hundred and sixty-eight and of the independence of the said United States, the ninety-third.

[SEAL.] EDWARD KURZ, *Clerk.*

172 The United States of America to Matthew Bolles, greeting.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to an appeal in the Circuit Court of the United States of America, for the district of Wisconsin, wherein David W. Jones is appellant and you are appellee, to show cause, if any there be, why the decree passed against the said David W. Jones should not be reversed and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this ninth day of November, in the year of our Lord one thousand eight hundred and sixty-eight, and of our Independence the ninety-third.

[SEAL.] A. G. MILLER,
District Judge.

We accept service of above citation, this 20th day of November, A. D., 1868.

FINCHES, LYNDE & MILLER,
Sol'r's for Compt.

himself says that he is worth the sum of five hundred dollars over and above all his just debts and liabilities and property exempt from sale on execution.

[SEAL.]

D. W. JONES.
WILLIAM T. HENRY.
JOHN J. ROSS.

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[SEAL.] A. G. MILLER,
District Judge.

We accept service of above citation, this 20th day of November, A. D., 1868.

FINCHES, LYNDE & MILLER,
Sol'r's for Compt.

DAVID W. JONES,

Appellant,

Impleaded with the

MINERAL POINT MINING COMPANY,

vs.

MATTHEW HOLLES.

SUPREME COURT

OF THE UNITED STATES.

DAVID W. JONES, *Appellant*
Impleaded with the
MINERAL POINT MINING COMPANY,
vs.
MATTHEW BOLLES.

Appeal from the Circuit Court of the United States for the District of Wisconsin.

The Bill was brought in this case to perpetually restrain and enjoin the Defendant and Appellant, David W. Jones, from bringing an action against his co-defendant, and to restrain his co-defendant, the Mineral Point Mining Company, from paying to the said Jones
1 any money for mineral rents, or purchase money of the Real Estate therein described.

The basis of the relief prayed for is, that the Complainant was induced by the representations of the respondent Jones and the agents of the Mineral Point Mining Company, to purchase stock in said Company a part of which representations were true and a part false.

The representation that the Mineral Point Mining Company had purchased the land of Jones and paid for it in full, and that it was of great value for mining purposes and easily developed, and made profitable by a judicious expenditure of money, and that the whole had been paid for, and that the Company owed Jones nothing on the purchase, and
2 that Jones had no interest in the property, and that the Company had a warranty deed of the land; and that the Company had, pursuant to its charter, fixed its capital stock at the sum of $500,000. and issued one hundred thousand shares of its capital stock, at $5. each are all assumed by the complaint to be true. But it is alleged that the representation that the land was unincumbered while true in *fact* yet was false so far as the alleged abstract of Records was concerned, and that Jones *concealed* from complainant the fact that a contract was in existence between Jones and the Company at the time the deed was executed by
3 Jones to the Company by the *terms* of which contract, Jones at the time of bringing of the Bill of complaint herein, claimed to be entitled to a large balance due him for mineral rents, and purchase money of said real estate from the company: and that Jones insists that the said contract is a valid and subsisting agreement; and threatens to bring an action against the company, (his co-defendant) to enforce his *pretended claim* for rents and purchase money, and that complainant believes that the pretended claims of Jones for mineral rents and balance due for purchase money, are false and fraudulent and put forth on the part of Jones to extort money; and that thereby
4 the stock held by complainant, and purchased by him in good faith upon the strength of the representations of Jones is *liable* to become greatly depreciated in value, and said company to be greatly embarrassed in conducting its affairs.

The basis of the prayer for relief then is, that Jones, (the appellant) threatens to bring a suit against his co-defendant, The Mineral Point Mining Company, upon a false and fraudulent claim, for the pur-

pose of extorting money, and that thereby complainant is liable to suffer injury and sustain damage, and *one of the defendants, the company is liable to be greatly embarrassed in conducting its affairs.*

5 The demurrer admits these allegations to be true, but how does a Court of equity acquire jurisdiction? The Defendant, the Mineral Point Mining Company, is not charged with fault or collusion. It is a corporation, and is not charged with having solicited the complainant to act as its guardian or agent, or officer, and if it had, a most singular use of authority would be presented by bringing an action against the principal, by the agent, to prevent it from being embarrassed in conducting its affairs. It is not alleged that the Company if sued by Jones, will not defeat the action. It is not allleged that it is incapable of transacting its business, and protecting its stock-

6 holders. It is not shown how such large stock holders as the Complainant and his associates (representing upwards of two-thirds of the capital stock of the Company, p. 3. fol. 4 of printed case) have not the entire control of the affairs of the Company. It is not shown how the company could not, and should not have brought an action in its own State Court to remove a cloud upon its title, if it was likely to be embarrassed by Jones setting up a false and fraudulent claim.

It is not shown how the Mineral Point Mining Company is likely to, or can injure the complainant or any of its stock-holders, by

7 Jones bringing a threatened suit.

Clearly then, there is a misjoinder of defendants.

If there is no collusion, or concert of action charged between Defendants and relief be demanded against both or all in regard to the same thing and no cause of action be stated against one, there is a misjoinder of parties as to both or all, and either may demurr. That

a demurrer will lie as to a defendant improperly joined, *vide* Story Eq. Pl., sec 544.

As to the Respondent, D. W. Jones it is claimed that in equity he ought not to be permitted to prosecute a false and fraudulent
8 claim for the purpose of extortion against the Mineral Point Mining Company, and ought to be restrained from brining such action because his representations induced the Complainant to buy stock in said company, which is likely to become greatly depreciated in consequence of Jones *threatening* to bring such action. To say nothing of the vague, loose and uncertain manner in which everything is charged in the complaint, we will enquire, what is the complainants appropriate remedy, all of these things being true as alleged. If Jones made *false* representations whereby complainant was induced to purchase stock and was injured, the Courts of common law
9 afford an ample remedy. If Jones made false representations or true representations which he afterwards attempted to falsify, and afterwards attempted to do that which, if consummated, would operate as a fraud upon complainant, the Courts of law still afford a remedy.

First. The Courts of law possess as ample power to guard against fraud, as do Courts of Equity.

Second. If Jones' representations operated as an estopple against his setting up a claim against the Company, it would be as operative as a defense in law, as it would in a Court of Equity. If the
10 threatened action had been, or were to be brought by Jones, against the Company, the answer is, the claim is false, fraudulent, and brought for the purpose of extortion. This affords a perfect defense in law. If the claim were true, and not false but Jones had estopped himself from enforcing it by making false representations, that is, by representing to the purchasers of over two-thirds of the

stock, that he had no claim against the Company, and the contrary of those representations if acted upon, would injure and embarrass the Company, the defense is still perfect in the action at law; therefore, the demurrer should have been sustained upon the ground that a
11 Court of Equity had not jurisdiction because a Court of law had full and adequate jurisdiction of the subject matter of the action. But again the demurrer should have been sustained because the facts stated do not constitute an equitable cause of action.

It does not show wherein or how much damage the plaintiff is liable to sustain, and does not pretend that any has been sustained. Courts of Equity will protect against great threatened injury where the mischief will be irreparable. There is no allegation here of irreparable injury; no averment that Jones is irresponsible; no statement of facts from which injury can be inferred. The only allegation upon
12 that subject is that the stock which Plaintiff now holds is *liable* to become greatly depreciated in value.

The Bill is not one for discovery. All of the facts are known, and susceptible of proof without any testimony to be furnished by the answer. There is no averment in the Bill of Complaint of the *amount* claimed by Jones. Upon this subject there is no such averment as affirmatively shows the jurisdiction of the U. States Circuit Court between citizens of different States. There is no averment of even the *probable* amount to which the stocks of complainant might deteriorate.

There is no such statement of facts as show that if the alleged
13 representations made by Jones are true, any possible injury could result to Complainant. Suppose that Jones did represent that he had been paid in full, what possible difference could it make to a stock holder whether Jones had been paid his $30,000 in the stock of the Company at its market value, and was a shareholder to that amount, or whether shares enough of the capital stock of the Company had

been sold and the money paid to Jones, or whether enough of the capital stock of the Company or its avails had been laid aside to pay for the lands, that the Company was buying of Jones. In any event, the amount paid for the land, or agreed to be paid for it was from

14 the nature of the corporation somewhere represented by the stock of the company and the holders of that stock were, *pro tanto*, interested with Complainant in the affairs of the Company. The capital stock had been fixed—the one hundred thousand shares had been issued, and the $30,000 paid for the land, or agreed to be paid for it was somewhere represented by stock to that amount, and it could make no possible difference to Complainant where it was, or in whose hands it might be, There is no allegation that if Jones had not been paid and should enforce a claim against the Company that assessments would have to be made upon the shares.

15 Suppose that by agreement with the Company, the avails of the sale of stock to Complainant were to be used, enough of them, to pay to Jones the $30,000 for his lands; and Jones had said, relying upon that arrangement that his land had been paid for by the Company; or if the Company had set aside the stocks sold to Complainant, from which to procure the money to pay Jones; and Jones had said to Complainant, It is safe for you to buy stock—the Company has paid me; and there is no incumbrance upon the land which can prejudice you, it could by no possibility have operated to the prejudice of Complainant, because if the Company kept its agreement

16 and paid the money received from sale of stock for the land and removed the incumbrance, it was no injury to any one, and if it failed to keep its agreement and pay over the money, the Complainant would suffer from the neglect as much as Jones, and would do himself and all others concerned a great wrong to interfere and prevent the incumbrance from being removed and thus leave the property just as it ought to have been placed. Indeed it may be well argued that the

Complainant by this suit is preventing the actual consummation of what he supposes to be for his benefit, the removing of an incumbrance by preventing the Company from doing what it ought
17 to do, and what it might do, without possible injury to any one. In these respects the bill contains no equities.

But again. Stretch the doctrine of equitable estopple to its utmost limits, and does it operate upon oral representations of title to real estate? For what are our registry laws; and what our statutes of frauds?

It is a rule of law that the admissions of a party are competent evidence against himself only in cases where parol evidence would be admissible to establish the same facts; or in other words when there is not, in the judgment of the law higher and better evidence
18 in existence to be produced.

Welland Canal Co., *vs.* Hathaway; 8, Wen., 486.

Jenner *vs.* Joliffe; 6, John 9.

Hasbrouk, *vs.* Baker, 10 John, 248.

Fox, *vs.* Kid; 3 John, 477.

We think the Bill of Complaint not only demurrable, but frivolous. If the case is examined upon the pleadings and proofs, we think the bill should have been dismissed.

First. The proof does not show that the Complainant, Matthew Bolles, is the owner of any stock in the Mineral Point Mining Company. In his own testimony he carefully avoids saying that he owns
19 any stock, or that he owned any at the time of filing the bill. No stock holder has united with him in prosecuting this action. If it be true that he owns one share (worth $5.) he occupies the position of obtaining an injunction to restrain the Company from paying an

honest debt, of which his distributive share, if it were paid by an assessment would be less than five cents. But the proof shows that the balance due to the defendant, D. W. Jones, if it had been paid by the Company, would have been paid from the sale of stock, and no portion of it would have come out of Complainants interest, if he had owned ever so much stock. We think for these reasons that the
20 bill should have been dismissed.

Second. The Company, at its meeting of April 27, 1865, set apart 25,000 shares of its capital stock to pay the Defendant, Jones, for the lands purchased of him; printed case, p. 46, fol. 77. This afforded ample means with which to pay for the lands, and a large margin over. It is impossible to perceive any pecuniary interest that Complainant or any other stock holder could have in preventing the Company from using enough of the avails of this stock to pay for the lands. Whatever the productions of the Company's mines, the profits were to be divided *pro rata* among the holders of the 100,000
21 shares of capital stock.

It would therefore seem to be quite immaterial whether Jones represented that the land had been paid for or not, so long as the means had been provided, and their use could not lessen the dividends of any stock holders, no representations however false, could have pecuniarily injured a purchaser of stock.

The motives which actuated the bringing of this action are quite immaterial, providing the right to maintain it exists. But the Complainant *seeks equity*, and if it appears from the case, that he is endeavoring to drprive the Defendant Jones of his just dues, in
22 order that he, Complainant may be benefited without regard to any contract, and is using alleged representations, which if relied upon, could not have injured him as a *pretext* for the endeavor; his right to recover becomes identical with the motive. The one being wrong,

the other can have no existence in equity. The price for which the Defendant Jones sold the property, was a fair price. The Company to which he sold agreed to pay $30,000. At the time of exhibiting the bill of complaint herein, the Company had paid less than $26,000., leaving a balance due Jones of over $4,000 on the purchase price; p. 60 of case. Twenty-five thousand shares, representing at par value $125,-

23 000 had been appropriated by the Company to be sold to pay the Defendant, Jones, for the land; p. 46. fol. 77, p. 107, fol. 163, case. These shares were placed in the hands of Buttrick and Hill, as agents to sell. The Complainant, in time, came to be selected as fiscal agent and broker for the Company, and also was the agent of Buttrick and Hill, and was promised 4,000 shares ($20,000 by them for his services; p. 75, fol. 118, printed case. Long after he alleges in his bill of complaint that he purchased stock for himself, and in trust for others, he is found cashing the drafts of Buttrick and Hill, in favor of Jones, and knew that it was to pay Jones for the land. He admits that

24 the money that he paid on the drafts of Buttrick and Hill were in payment of the purchase money; p. 73, fol. 116. Also that he was treasurer of the Company when he paid the drafts. There was to be a sum of money made by some one, by the sale of the 25,000 shares that had been placed in the hands of Buttrick and Hill with which to pay the defendant Jones for his land. Twenty thousand dollars of this was to go to plaintiff for his services in helping Buttrick and Hill discharge the duties of their agency. Buttrick & Hill claim that they were to be paid $4,000 commission by Jones for selling his lands. Buttrick and Hill were to handle $125,000. to pay Jones

25 $30,000. and by a pretended side arrangement were to pay plaintiff a bonus of $20,000. and make $4,000. out of the defendant Jones, and thus retain from the company, over and above all the sum of $79,000. It seems quite obvious that plaintiff is interested in Buttrick and Hill's success in appropriating the moneys of the com-

pany to their own use, and equally obvious that this Bill is brought in the United States Court by the plaintiff to litigate the question of the $4,000. commission between Buttrick & Hill, and the defendant Jones. We respectfully submit that the attempt to litigate that question in that way is a grave wrong to the defendant Jones, and pre-

26 sents a question in which the other defendant, The Mineral Point Mining Company can have no possible interest as against Jones, or in his favor in this proceeding. If its agents have not used the funds furnished to pay its liabilities, the company must look to its agents for the default. If through its agents it has paid the purchase money to the defendant Jones, then it ought not to be made a co-defendant with Jones, but as against him should be left to assert its own antagonistic interests. In no event should it be made a co-defendant with Jones.

The whole of complainants case rests upon a loose verbal, alleged

27 admission made under circumstances of all others most likely to be misunderstood or misconstrued.

They are susceptible of precisely the explanation given by the defendant Jones; his explanation carries upon its face intrinsic evidence of its truthfulness, and the high character of the witness entitles it to the greatest consideration.

The attempt to hold a party responsible for general conversation held at a kind of social party, and that conversation relating to real estate, the title of which might have been fully understood by the examination of an abstract which was publicly exhibited, seems to us

28 most extraordinary.

The plaintiff was elected treasurer of the company, as early as the fore part of February, 1866. The stock ledger & transfer book of the company were placed in his keeping, and he was to issue stock certi-

ficates. He must have known that the company had provided for paying for the land, and that if it had not been paid for, it was the fault of the agents, Buttrick & Hill; and he at the same time must have known that the stock which he was handling, as Broker of the company, enough to pay $30,000. belonged to the defendant Jones; and his attempt to divert any portion from its equitable owner for his own interest, or for the interest of his employees, Buttrick & Hill, is a fraud.

The parties to be benefited by the success of Plaintiff are Buttrick, President of the Company, Hill the Secretary, and the Plaintiff, Treasurer. And the treasurer sues his principal, and the company, if it defends, can only defend through these officers of the Company.

It has not interposed any defense. Its officers, through whom it alone can defend, are interested personally against its making any defense. They bring, and *cause* to be brought this action with the intention that it shall be placed in default for their benefit. It is difficult to conceive of trickery more palpable, more disreputable.

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